# United States Court of Appeals for the Second Circuit



**EXHIBITS** 

# 76-6041

-- -- -- 6-00

MARY C. DALY

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

Docket No. 76-6041



MICHAEL MC DEVITT,

Plaintiff-Appellant,

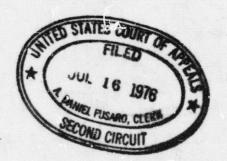
- v -

CASPAR WEINBERGER, Secretary of Health, Education and Welfare,

Defendant-Appellee.

On Appeal From the United States District Court
For the Southern District of New York

EXHIBIT FILED BY DEFENDANT-APPELLEE PURSUANT TO RULE 30(e) OF THE FEDERAL RULES OF APPELLATE PROCEDURE



IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

MICHAEL MCDEVITT

Plaintiff

Y C B

Civil Action No. 74-CIV-3992

CASPAR WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE,

Defendant

#### CERTIFICATION

I, H. Dale Cook, Chairman, Appeals Council and Director, Bureau of Hearings and Appeals, Social Security Administration, Department of Health, Education, and Welfare, under authority conferred upon me ky the Secretary, hereby certify that the documents annexed hereto constitute a full and accurate transcript of the entire record of proceedings relating to the application of Michael M. McDevitt to establish a period of disability, and his claim for disability insurance benefits (continuation/overpayment) under title II of the Social Security Act, as amended, such transcript including application for a period of disability and disability insurance benefits, testimony and other evidence upon which the decision of the administrative law judge of the Bureau of Hearings and Appeals, Social Security Administration, was based.

Date: November 11, 1974

H. Dale Cook

Michael M. McDevitt, Claimant and Wage Earner
Account Number 102-34-4801

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(Claimant)

(Social Security Number)

(Wage Earner) (Leave blank if same as above)

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(Claimant)

(Social Security Number)

(Wage Earner) (Leave blank if same as above)

#### EXHIBITS

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### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE SOCIAL SECURITY ADMINISTRATION

P.O. BOX 2518, WASHINGTON, D.C. 20013

AUS 1 4 1974

BUREAU OF HEARINGS AND APPEALS

REFER TO IHA-2 102-34-4801

ORDER OF APPEALS COUNCIL EXTENDING TIME TO FILE CIVIL ACTION

.Mr. Michael M. McDevitt 30 Sickles Street Apartment 1-I New York, New York 10040

Dear Mr. McDevitt:

This will acknowledge receipt of your letter of July 18, 1974, for an extension of time within which to commence a civil action in your case. The Appeals Council grants this request. The time within which to commence a civil action in the United States District Court for the purpose of reviewing the decision of January 30, 1974, is hereby extended to said including September 20, 1974.

John W. Charters

Hardwer, Apparais Connedi

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30 fikke Lt May 1, 1974 July 18, 1974

My John W. Council Eggents Council Seil Leinty Colmination P.O. Box 2518, Wash. D. C. 20013

Dear Mr Clambers:

On May 21, 1874 you infamed me of a decement from the appeals Council on a matter of had pending. My social arenty number in 102.34-4801. You notified me that I had sixty days to commone rivid action if y so drawed.

I have concluded that it would be wise for me to be hard with representation by some of a cuil action.

On July 17, 1974 of spoke to Mr Bang J. Reiher, assistent Ryand attany. in regards to my appeals notice. I requested of him an extension in time for me to appeal the dension that we not for the extension was: I sould not get in tough with the attorney who & would like to represent me, for he wer western. Mr. Reiber tilled one to call him up the following day and he would ove on answer for me. On July 18, 1974 when of yanke to Mr. Mile on the place - he confirmed my extrume. He also instituted one to notify you of this matter. V lype of Lave done everything in aread. finely,



#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE SOCIAL SECURITY ADMINISTRATION

O BOX 2518 WASHINGTON DC 20013

TMA-2 109-34-4801 2 1 600 1074

BUREAU OF HEARINGS AND AFRICE

#### ACTION OF APPEALS COUNCIL ON EXPONENT FOR REVERS

Nr. Michael N. McDowitt 30 Sickles Street, Apartment 1-I Boy York, New York 10040

Dear Mr. McDewill:

Your request for review of the administrative law judge's doctoics has been carefully considered by the Appeals Openedl. The Council's consideration of your request has included all the evidence in your acco. the law and regulations applicable to your claim, the qualinguies of the facts and the reasoning in this decision, and your reasons for bulliaving your claim should be allowed.

The Appeals Council has concluded that this decision is coruget. Forther action by the Council would not, themedoes, spoult in may thange which would be of advantage to you. Accordingly, the adoption the law judge's decision stands as the final decision of the Satation in your cess.

If you desire a review of the decision by a court, you may companse a civil action in the district court of the United Stapes in the judicial district is which you reside within sinty (64) done from this days. See section 205(g) of the Social Security Act, so medical (Mathem 485(g). Title 42, United States Code). If such entire is committed, the Sacrotary of Bacith, Béacstion, and Walfare is the program defundants

Change and your .

Jehn V. Chockeys Standard Committee Committee

Form HA-520

(8-66)

REQUEST FOR REVIEW OF HEARING EXAMINER'S ACTION Take or mail original and all copies to the District Office, Social Security Administration CLAIMANT'S NAME Entitlement to Disability Benefits (97) Continuence of Disability Benefits (98) Komer CESSATION OF DIS WAINER OF ONERPAYMEL. (Specify type claim) I disagree with the hearing examiner's action on the above claim and request that the Appeals Council, very to the Appeals Council within 10 days, any evidence or I ugderstand the Appeals Council may dony my request for review, but if it grants the request: to appear before the Appeals Council in Washington, D.C. at my own expense. Wish to file a brief or further written statement. (ATACHE Signed by: (Either the claimant or representative should sign-Enter eddresses for both)
SIGNATURE OR NAME OF CLAIMANT'S REPRESENTATIVE | CLAIMANT'S SIGNATURE ADDRESS CITY, STATE AND ZIP COD TELEPHONE NUMBER DATE . Claiment should not fill in below this line. Is this request filed within 60 days of the hearing examiner's action? If "No" is checked: (1) attach claimant's explanation for delay; (2) attach any portlanat letter, material or information in the district office. ACKNOWLEDGMENT OF REQUEST FOR REVIEW OF HEARING EXAMINER'S ACTION Request for Review of Mearing Examiner's Action in this case was filed on The Appeals Council will notify you of its action on your request. A Security Administration Sent to: Bureau of Hearings and Appeals P.O. Box 2518 Washington, D. C. 20013

APPEALS COUNCIL



DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

Form anymoral to 72.8942

#### STATEMENT OF CLAIMANT OR OTHER PERSON

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thincw that anyone making a false statement or representation of a meterial fact in an application or for In determining a right to payment under the Social Security Act commits a crime punishable under herent law, I affirm that the above statements are true. SIGNATURE OF PERSON MAKING STATEMENT Signate (First name, methode teltial, but name) (Write in inh) Date Ultwest. Notages are required ONL " if this statement has been signed by mark (A) above. If signed by mark (N), + : we diffresees to the signing who know the individual must sign below, giving their tull addiresees; Skinds under Winness 2. Signature of Witness 195 (Milmber and street, City, State, and 3:19 Code) Address (Napuber and street, City, Bight, Soul III) Code)

### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SOCIAL SECURITY ADMINISTRATION BUREAU OF HEARINGS AND APPEALS

CLAIMANT | Michael McDevitt 30 Sickles Street, Apt. 1 I New York, New York 10040

NOTICE OF DECISION

PLEASE READ CAREFULLY

If you disagree, in whole or in part, with the enclosed decision of the decisi

You, or your representative, may file the request for review at the nearest office of the Social Security Administration, or you may file the request for review with the hearing office company or with the Appeals Council.

Unless you file a timely request for review by the Appeals Council, you may not obtain a court review of your case under sections 205 (g) and 1869 (b) of the Social Security Act.

This notice and enclosed copy of hearing

Janaury 30, 1974

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE SOCIAL SECURITY ADMINISTRATION BUREAU OF HEARINGS AND APPEALS

11

#### HEARING DECISION

In the case of

Michael McDevitt

(Claimant)

(Wage Earner)(Leave blank if same as above)

Claim for

Cessation of Disability Benefits Waiver of Overpayment

102-34-4801 (Social Security Number)

The claimant filed his application for a period of disability and disability insurance benefits on November 24, 1967 and was notified by the Bureau of Disability Insurance that he had been found disabled with onset on April 28, 1967. Subsequently, pursuant to a continuing disability investigation, the claimant was notified by the Bureau of Disability Insurance that his disability had ceased in May, 1970 upon the completion of a trial work period, that his period of disability and entitlement to disability insurance benefits terminated with the end of July, 1970 and that he had been erroneously overpaid for the months of August, 1970 through June, 1971 in the amount of \$1921.20.

The claimant disagreed with these findings, alleging in effect that there was a continuing disability, that there was no overpayment and that there should be no refund required of him.

#### ISSUES

The general issues before me are whether the claimant continues to be entitled to a period of disability and disability insurance benefits. The specific issues are whether the claimant's disability has ceased and, if so, as of what date. This depends on whether the evidence establishes that the claimant's impairment has improved sufficiently so that it is no longer of such severity as to prevent him from engaging in substantial gainful activity.

An additional issue is presented as to whether there is an overpayment and, if so, for what months, and whether recovery of the overpayment may be waived under the provisions of Section 204(B) of the Act. This depends upon whether the claimant was without fault and recovery of the overpayment would defeat the purpose of Title II of the Act or be against equity and good conscience.

#### LAW AND REGULATIONS

Section 216(i) of the Social Security Act, as pertinent herein, provides for the establishment of a period of disability and, in effect that such period shall end with the close of the last day of the second calendar month following the month in which the disability ceases.

Section 223 of the Act, as pertinent herein, provides for the payment of disability insurance benefits and, in effect, that entitlement to such benefits shall end with the close of the second month following the month in which the disability ceases.

Section 404.1539(a)(2) of the Social Security Regulations No. 4 provides in effect that a claimant's disability shall be found to have ceased in the month in which the individual has regained his ability to engage in substantial gainful activity.

Section 222(c) of the Social Security Act, as pertinent herein, provides for the establishment of a trial work period beginning with the first month of entitlement and ending with the ninth month in which services are rendered (whether or no such nine months are consecutive).

Section 204(b) of the Social Security Act, as pertinent herein, states: "In any case in which more than the correct amount of payment has been made, there shall be no adjustment of payments to, or recovery by the United States from any person who is without fault if such adjustment or recovery would defeat the purpose of this title or be against equity and good conscience.

Section 404.508 of the Regulations states in this connection: ".... defeat the purpose of benefits under this title, i.e., to deprive a person of income required for ordinary and necessary living expenses.

#### THE EVIDENCE

The claimant was found to have been under a disability as of April 28, 1967 with a diagnosis of status post basal skull fracture with loss of hearing on the left and vertigo. On June 3, 1969 he began work as a stone setter. He reported this fact to the Social Security Administration on June 13, 1969 (Ex.16). On January 22, 1970 he reported that his employment had ended on August 22, 1969, was resumed on October 24, 1969 and stopped again on January 20, 1970 (Ex.19). He returned to work on March 18, 1970. There is no evidence of a written report having been submitted by him on this return to work until May 13, 1971, when he replied to an inquiry from the Administration sent him on April 23, 1971 (Ex. 20). Upon receipt of this information the determination was made that the claimant had completed a trial work period in April, 1970, that his disability ceased in May, 1970 and that his last month of entitlement to benefits was July, 1970. It was also determined that he had been overpaid \$1921.20, representing payments made for August, 1970 through June, 1971 and that repayment of this amount was required to be made by the claimant (Exs.7 and 6). As is indicated above, the claimant disagrees.

At the hearing the claimant testified that within a week of his resumption of employment in March, 1970 he sent the Administration the same type of written notification he had submitted in the past when he would start on a job. In addition, he testified, he appeared at his local District Office with his wife and reported this March, 1970 return to work. He also testified that he has worked on a fairly steady basis from that time on, that generally he performs a normal amount of work but that when he returned to work he had to be careful about the kind of job he took because of his physical condition. When he continued to receive disability benefits after he returned to work, he thought they were being sent him as an incentive to resume and continue working and that he was entitled to them. He further indicated that, in addition to being without fault in receiving the monies in issue, he had debts and expenses which would make repayment contrary to the purpose of the Act.

The claimant's attention was invited to the "Without Fault" Questicanaire which he signed on February 22, 1972 (Ex.22), which contains his statement: "I did not report back in March 1970 because I either did not think I was going to work a whole month; or else, I simply forgot because I do have memory lapses". Asked about this in connection with his testimony that he had reported that employment at the time, both in writing and orally, the claimant testified that he remembered the interview in connection with the "Without Fault" questionnaire, that he had gone to the Office to try to obtain an examination by a neurological specialist and was pre-occupied with that, that the woman interviewing him was insistent that the records failed to show that he reported the employment in question, that he did have mental lapses and that, though he signed the statement, he didn't mean it. When he returned home and reported the incident to his wife, she reminded him that she had gone with him to the District Office to report the employment. However, he did not seek to correct the signed statement because he did not think he would be called upon to repay the money.

#### EVALUATION OF THE EVIDENCE

I find, first, that the claimant did become able to engage in substantial gainful work in May, 1970. By that time he had completed a trial work period of nine months, with average monthly earnings of at least \$450 including periods of unemployment, an amount well within the area which raises a presumption of employability. The claimant indicated that foremen were cooperative in assigning him work which he was physically able to perform. Assuming this, there is no evidence nor, indeed, is it alleged, that any of this was made work or of a sheltered workshop type.

Secondly, I believe the preponderance of the credible evidence reveals that the claimant failed to notify the Administration promptly of his return to work in March, 1970. Of course, the absence of a record of such notification in the Administration's files, which contain other notifications, is only some evidence of some weight and not at all conclusive. Similarly, no conclusive presumption can arise from the fact that the claimant made no mention of his earlier March, 1970 reporting in replying to an inquiry which might, though not necessarily, have indicated to him that the last report the Administration had from him was the one giving the January, 1970 termination of employment (Exs. 20 and 19). I believe the claimant's recollections on the March, 1970 notification is faulty for the additional reason that it seems to have been faulty in other particulars of our inquiry.

In May, 1971, when he responded to the work inquiry and stated that he had resumed working in March, 1970 he gave as his average gross earnings from that resumption date \$150 a week (Ex.20). His Social Security Earnings Record shows that it was closer to \$227 a week (Ex.35). In February, 1972 he stated in his Refund Questionnaire that his average monthly take-home pay was \$450. His Earnings Record shows a monthly average of gross pay for the first quarter of 1972 of over \$1250, a figure still not close, after allowing for deductions, to the one given. Finally, at the hearing the claimant testified that he had made a mistake in giving his monthly rent as \$156 in the Refund Questionnaire (Ex.21) and that the actual amount was \$130.

As I have already indicated, I mention these discrepancies as indications that the claimant may well have been mistaken in his recollection regarding the alleged March, 1970 notification, as he obviously was in these other respects.

I must find, then, that the claimant was not without fault in continuing to receive and retain the benefit checks for the months after July, 1970.

In any event, recovery of the overpayment would not defeat the purpose of the Act; that is, deprive the claimant of income required for ordinary and necessary living expenses. The claimant lists these expenses on his Refund Questionnaire as \$473.50 a month (Ex.21), although adjustments must be made for the addition of a child and the inflation of the past two years. His Earnings Report shows average monthly gross income from the 3rd quarter of 1970 through 1972 of over \$950, again an amount which, after deductions, must still leave enough to meet his ordinary and necessary living expenses. At the hearing, the claimant mentioned debts owed his father and brothers and brother-in-law, the demand for repayment of which I cannot conceive would be so insistent as to result in the claimant and his family being deprived of necessary food, clothing and shelter. At least there is no evidence in the record to this effect. Nor, finally, does the record contain any evidence which would militate against recovery of the overpayment on the ground that recovery would be against equity or good conscience.

#### FINDINGS

1. The claimant was found disabled within the meaning of the Social Security Act beginning on April 28, 1967.

- 2. The claimant's impairment has improved sufficiently to permit resumption of substantial gainful activity beginning in May, 1970.
- 3. The claimant's "disability" which began on April 28, 1967 ceased in May, 1970.
- 4. The claimant's entitlement to a period of disability and disability insurance benefits ended with the close of July, 1970.
- 5. The claimant was at fault in creating the overpayment of \$1921.20.
- 6. Recovery of the amount of overpayment would neither defeat the purpose of Title II of the Act nor be against equity and good conscience.

#### DECISION

It is my decision that the claimant's entitlement to a period of disability and disability insurance benefits ended effective with the close of July, 1970 and that the claimant received benefit overpayments in the amount of \$1921.20. It is my further decision that recovery of the overpayment shall not be waived.

Milton Pravitz

Administrative Law Judge

Date: January 30, 1974

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in the c	case of		Claim for
	Michael McDevitt	;•/	Generation of Disability Benefi Waiver of Opensyment
Claiman	")	eve a	103-34-4801
Wage E	arner) (Leave blank if same as above)		(Social Socurity Humber)
TO:	Mr. Michael McDevitt		
	30 Sickles Street, Apt. 1 I New York, New York 10040		
- ;ring	nt to your written request and the provisions will be held by (%) undersigned, an Admini  15th day of October	strative Law Judge of	the Bureau of Hearings and Appeals, lock in Room of
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IMPORTANT-Please sign the enclosed postal card notifying me whather you will be present at the above time and place. The postal card should be returned at once; no postage is required.

Dere September 20, 1973 264-2838

Meil Address

26 Pederal Plana, Rr. 3138

New York, N.Y. 10007

cc: Representative (Name and Address)

District Office (Address)
4292 Broadway, New York, N.Y. 10033

the Social Security Act, as assemed.

AD THE OTHER SIDE OF THIS NOTICE FOR FURTHER INFORMATION REGARDING YOUR HEARING.

FORM HA-507

**MEARING FILE** 

BEST COPY AVAILABLE

(Over)

#### Appearance at Hearing

The date and time of this hearing have been set aside especially for you. Your failure to appear without good reason may cause dismissal of your Request for Hearing. Even though there is good reason, any postponement will delay disposition of your case. If an emergency arises preventing your appearance after you mail the postal card stating that you will be present, notify the Administrative Law Judge promptly and give your reasons. Also, indicate the earliest date after which your case can be rescheduled for hearing.

#### Conduct of Hearing

The law places on you the burden of submitting evidence to support your claim. Bring to the hearing all evidence not already presented in your case.

You will have an opportunity to examine the documentary evidence on the day of the hearing. If you wish to examine it before the day of the hearing you may do so at the hearing office.

At the hearing the Administrative Law Judge will inquire fully into the matters at issue. You may present evider either in the form of written documents or the testimony of witnesses, or both. Your testimony and that of any witnesses will be under oath or affirmation, and a verbatim record of the proceedings will be made. You may suggest findings of fact or conclusions of law and present arguments orally or in writing:

#### Representation

While it is not required, if you desire assistance in presenting your case you may be represented of the hearing by an attorney prother qualified person of your choice. Any fee which your representative wishes to charge for his services your case must be approved by the Bureau of Hearings and Appeals. Your representative must petition for fee approval at the conclusion of his services, and must furnish you with a copy of his petition.

If you are found entitled to benefits and your representative is an attorney, 25 percent of your back benefits will normally be withheld pending approval of a fee for your attorney. If the approved fee is less than the 25 percent withheld, the difference will be paid directly to you. If the approved fee is more than 25 percent, payment of the difference is a matter to be settled between you and your attorney.

If your representative is not an attorney, none of your benefits will be withheld, and payment of the fee which is approved is a matter to be settled between you and your representative.

If you have any other questions, your local Social Security office will be glid to help you.

BEST COPY AVAILABLE

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## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE SOCIAL SECURITY ADMINISTRATION

REFER TO

BUREAU OF HEARINGS AND APPEALS

March 29, 1973

Michael McDevitt 30 Sickles St. #11 NY, NY 10040

Dear Sir:

We have received your request for a hearing on your social security claim. Because of the number of hearing requests that are pending in this office, there may be some delay before your hearing can be held. However, you may be sure that it will be held as soon as possible.

You will be notified of the time and place of the hearing.

Sincerely yours, File

Seymour Fier

Administrative Law Judge-in-Charç

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264-3820

SOCIAL SECUR	REQUEST	FOR HEARING 20
	Take or mail original and all cop	opies to your local Social Security office.
MICH	S NAME  ARL MC DELITT  NER'S NAME (Leave blank if same as above)	CLAIM FOR Entitlement to Disability Benefits (97)  Continuance of Disability Benefits (98)
WAGE EAR	TEN S TYAME (Leave Didne in Same 93 900 ve)	
SOCIAL SEC	CURITY NUMBER	DISABILITY
	34-4801	WAIVER OF OVERPAYMENT - (Specify type claim)
I disa	agree with the determination made on the aborearings and Appeals. My reasons for disagree	ove claim and request a hearing before a hearing examiner of the
1		cleing ABOUT my WORK
Α ΄		1073
	Forward to the Social Security Office MAR 2 within 10 days.)	1 wish to appear in person before the hearing examiner.    I waive my right to appear and give evidence, and hereby request a decision
Signed by:	(Either the claimant or representative should	on the evidence before the hearing examiner.  The sign-enter addresses for both. If claimant's representative is
	not an attorney, complete Form SSA-1696)	
SIGNATURE	OR NAME OF CLAIMANT'S REPRESENTATIVE	E CLAIMANT'S SIGNATURE
		muchael milleville
RESS		30 SICKLES ST. AT312
CITY, STATE	. AND ZIP CODE	Vew York N. 4 10040
TELEPHONE	3/3	38/73. TELEPHONE NUMBERS  not fill in below this line 569 - 6790
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FORM SSA-5002 (2-68)

DEPARTMENT OF

# HEALTH, EDUCATION, AND WELFARE SOCIAL SECURITY ADMINISTRATION BUREAU OF HEARINGS AND APPEALS

1\_\_\_ 22

TRANSCRIPT

In the case of	Claim for
Michael McDevitt	Waiver of Overpayment - Cessation of Disability Benefits
	102-34-4801
(Wags Earner) (Leave blank if same as above.)	(Social Security Mumber)

Hearing Held

at

Room 3138, 26 Federal Plaza New York, New York

on

October 15, 1973

APPEARANCES:

Michael McDevitt, Claimant

Milton Prawitz

Antonia Babski

Administrative Law Judge

Hearing Assistant



#### INDEX OF TRANSCRIPT

In the case of
Michael McDevitt, Claimant

Account Number

102-34-4801

Testimony of Mr. McDevitt ----- commencing p. 2

(The following is a transcript of the hearing held before Milton Pravitz, an Administrative Law Judge of the Bureau of Hearings and Appeals, Social Security Administration, Department of Health, Education, and Welfare, on October 15, 1971 at New York, New York, in the case of Michael McDevitt, based on his own earnings record, social security number 102-34-4801. The claimant, Michael McDevitt appeared in person and was not represented by an attorney.)

(The hearing commenced at 10:30 AM on Sotebber:15, 1973.)

OPENING STATEMENT BY ADMINISTRATIBLE LAW JUDGE:

OK. Allright, the hearing will be in order. This is a hearing involving an alleged overpayment to Michael McDevitt after a cessation of disability benefits, claim number 102-34-4801. Mr. McDevitt, the notice that we sent you told you that you have a right to appear with an attorney if you so wish and it also indicated that if you prefer to come alone, why, that's okay, too. You're here alone. Am I to assume that you're ready to proceed on that basis?

MR. MCDEVITT: Well, the reason I didn't hire an attorney, your honor, is because I can't afford one and there's really not much for me to present that I feel I need an attorney. Well, I mean, unless I could be advised differently -- unless there's some facts here that I don't know about.

ADMINISTRATIVE LAW JUDGE: Well, you're going to have to make that decision. I can't.

MR. McDEWITT: I'm -- I'm making the decision to be by myself.

ADMINISTRATIVE LAW STUDGE: OK. Fine. Now, I'll tell you -why don't we start by swearing you'in, which is the customary thing?

The claimant, MICHAEL McDEVITT, having first been duly sworn,
testified as follows:

EXAMINATION BY ADMINISTRATIVE LAW JUDGE:

Q OK. Allright, now, you had an opportunity to inspect these proposed exhibits, have you?

A Yes, I have.

Now, I propose to receive them into evidence. That
means that in writing my decision I shall use as a base, that is, I
shall confine myself in the facts that I decide upon, to those -that information which I find in these exhibits, plus whatever information we obtain here at the hearing today, plus whatever other exhibits
I shall see fit to receive into evidence after the hearing is closed,
and, of course, if that should come up, you would have an opportunity
to inspect those and comment on those, too. They'll be part of the
total picture that I consider in arriving at my decision. Now, I propose to reserve these in evidence. Is there any objection on your part
to my doing it?

A None, that I can see.

Q OK. Exhibits 1 through 33 received. Now, is there any issue, Mr. McDevitt, as to whether or not you were able to work and did work after March, 1970?

A I did -- I did go to work March, 1970.

Q And you were able to work? Have you continued working?

A Well, I was -- see, in my type of line of business there's different type of work I do, and I was doing light work at that time.

Because I'm in the building trade line and I --

Q Right. Yes, go on please.

A -- I said I was in the building trade line. That's all my work and I work about -- between 95% of my work was on scaffold work and I was confined to the ground and I was supposed to have this other job to work on. So that's what I was -- that's build I was working on.

Q Allright. You worked from when until when? Starting March, 1970?

A Starting March, 1970 I believe I worked fairly steady from that point on. I don't have the exact dates but I believe it was said

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Q Well, off and on is -- is a normal kind of thing in ---building construction and in your trade particularly, is of it?

A It is. It's seasonal work, yes.

Q Right. So that you are saying now that, generally, your work-your work history since March, 1970 has been -- I say, generally, what's par for the course on your job?

A No, no, your honor. I was in the best shape I ever was at that time during my whole sickness. I was still confined to certain works and I had to be careful of jobs I would take and I would get the same pay if I would take another type of work. It was in the same category at the same trade, but I couldn't go on scaffoid --

Q I understand --

A I had to be careful what job I took. Like there were times
I worked a few days. I was -- I was out of work a long time. I was
very sick, very, very sick. I haven't completely -- until today. I'm
mot my normal self.

Q Yes, well, but what -- what I was referring to was the -the period of time that you worked, taking into account your continuing
inability to perform certain types of work, you see. Assuming now that
you're still restricted in the kind of work you do, my statement or my
question was directed to whether despite that, the amount of work you
had, your - your employment history since then as regards amount of work,
has been generally what was normal in your trade?

A Yes.

Q Is that so?

A Yes, it was.

Q OM. Allright, that being the case then, I think that we're zeroed in on the issue here, or we narrowed the issue to the question of whether -- to the question involving this overpayment and

whether that overpayment should be waived. Do you follow me, then?

A Yes

Q Because we're no longer talking about whether you were able to work or not, we're talking now about whether after '70 all monies received by you should be returned. I say that we're talking now about whether, after July, 1970, all monies received by you should be considered an overpayment and returned or whether there are circumstances which would prompt us to prompt the Administration to waive the return of those monies. Is that as you see it? Is that the -- what we're here for? You understand that?

A Yes, yes. If I understand it correctly, yes. I am here due to the fact that I -- I feel that I had no fault in so far as receiving the overpayments --

Q Allright --

A -- and I -- at the time I didn't realize they were overpayments. That's why I'm here.

Q Allright. Tell me, why didnAt you at the time realize that they were overpayments? You -- are you in a position to answer that?

A Well, when I went to the Social Security, see, I think I filed one determination before and that one piece of paper will verify that I always reported to them when I went back to work and indicates dates. They have -- it says one time there I didn't report on a certain date in March, 1970, which I did. I brought my wife there and I made it quite clear. I guess the point that I'm trying to bring across here is -- I used to go there frequently due to the fact I was so sick at the time and I was -- I was -- I was oh this trial work that -- work period and when it-- when it hit like the 7th or 8th month I asked them -- I didn't know if I was going to get 9 or 2 years trial work period or 6

months, I had no idea. And I used to -- I went there and asked them how long will a work trial period be and the response to that was -by the person that I addressed it to -- it's no telling -- it's what the doctor determines -- you'll be notified by the doctors and they -and they'll give you a physical check-up periodically and - and - and it's their determination. I could not tell you. And that is -- this type of steady response I received. That's why I really lacked the knowledge to the overpayment. And, in fact, I went there to see -and asked for the doctor to look at me, because I was getting sick and he had nothing to do with the payment. It was just that he was supposed to be a very top neurologist -- if he could help me -- because I was getting worse at times and better and worse - and I was in very, very bad shape and I was just married at the time and I was very nervous. I was very -- physically I'd been in good shape and all of a sudden my life changed and I was a -- seeking medical help but I wasn't -- wasn't, what do you call it - doing anything wrong or anything that - that - that I would have no knowledge whatsoever, not of anything that --

Q Allright. Now, let me ask you this. I think the file shows that on two previous occasions when you went back to work you notified the Social Security that you were going back and then they say that on this one, in March, 1970, you failed to notify them. Now, do you -- am I right in that on two previous occasions you did notify them?

A Yes, I did.

Q Allright. Now, had they given you a form to fill out for that notification or in connection with your returning to work?

Do you remember?

A I -- I filled out a few forms with them. Of s hand, I cannot tell you the exact dates.

Q Let's see if the file gives us anything. Here's a form, that's exhibit 17, that's a work activity report and it's dated July 9, 1969. I'll show it to you so that you have it before you. And it says -- and it refers to employment from June of '69 to the time this was filed the following months - Sparks, I-N-C. and it says -- the claimant feels he has to work despite his disability. He mentioned he had debts of over \$5000. Now, let me show you this. Now, this is the interview that you had with a Mr. Hughes July 9, 1969 and it refers to this employment. Right?

A Yes.

Q Now, do you remember this interview? Apparently it was down at the office -- down at the Social Security office.

A Well, I - I remember -- are these the footnotes to what was said?

Q This is what he put in.

A I do - I do remember having a few interviews. Everytime
I was there I had interviews -- 5, 10 minute interviews.when I was
there and I informed them of all my work activities.

Q I see. Now, is it -- you tell me whether I understood you correctly in this. In connection with your return to work in March of 1970, you say that you did notify the district office of the Social Security Administration?

A Yes.

Q Do you remember when it was?

A Well, I notified them by card and I notified them in person and I had my wife go down with me at that -- as at a hearing.

Q Well, let's take the card first. What kind of card was that? Was it a communication? Yes?

A They gave me -- they gave me cards to send them when you -- when you go back to work to mail them in. This letter would substantiate that. That they -- they received cards from me.

Q Which letter?

A That letter. This is -- I guess it was the determination the first time I was refused.

Q I want to take a look at this.

A I think it would be approximately the date there. This shows the date there.

Q Let the record show that the claimant referred me to the last paragraph of the reconsideration letter. That's exhibit 10 in the file, which states that he completed reminder cards reporting that he had worked at various times through January 20, 1970. Is that right?

A Right.

Q So that you're testifying now, Mr. McDevitt, that on the two prior occasions when you notified them that you returned to work, you did it through reporting it on these cards?

A What I'm saying is that's what they have here. I just -I followed the same procedure throughout. It's just that they don't
seem to have it in the file

Q Allright. Well then, when I asked the question the way I did, I'm not saying -- I'm not implying or indicating that on two prior occasions you did and on this time you didn't. I'm not even indicating that -- I'm certainly not indicating that that's what your testimony is. Just to that point, the first two times, do you remember sending them this card?

A Yes, yes.

Q OK. Allright, now, do you remember sending them the

card on the third time?

A Yes, I remember, yes.

Q Now, would you remember when you sent that card on the third time?

A I -- I -- not as to the day but it would be within the week I sent it. The date -- the exact date, no, but I recall sending it in.

Q Now, you say you can't remember the date but it would be within a week after you started working. Right?

A It would be in the week that I got started, yes.

Q Now, what makes you say that? Why do you say that?

A I wouldn't go further than a week. You see, I'm trying to -- I don't remember the particular date for -- I'm definitely sure -- I'm not sure of the day but I'm sure of the week.

Q I understand -- I understand what you're saying, but what I'm -- what I'm asking you is what makes you say that it wouldn't go beyond a week -- that you would have, see, even though you don't remember the date, what makes you say it would have been within a week?

A Well, I took this matter seriously. You know, I was trying to get it in the shortest time as possible because that was required.

Q Now, will you look at this letter you showed me - this same paragraph. Do you have it before you?

A Yes.

Q Allright. Now, that last paragraph - that long paragraph starts: "In June, 1969" -- are you with me? --

A Yes, I am

Q -- "In June, 1969, Mr. McDevitt started to work. This work activity was reported on June 13, 1969 and again in our interview with him on July 9, '69." OK? Now, so far that fits in with the pattern that you indicate. Right?

A Yes.

Now -- "on January 22, 1970, Mr. McDevitt completed reminder cards reporting he had worked from June 3 '69 through August 22, '69 and again from October 24, '69 through January 20, 1970." Now, this report starts - or refers to work that started in June, '69 and went through August - August 22, '69 and then again October 24, '69 through January 20, '70. Now, that wasn't reported until January 20, 1970.

A I'm sorry, I lost some of that last --

Q Allright. It says here that when you started to work in June '69 you reported it or it indicates you reported it right away. OK?

A Yes.

Q -- And then you reported again July 9, '69. OK? That's the first sentence -- second sentence there. Right?

A Yes, yes.

Q Then the next report they got from you even though you continued to work from July '69 to August and then again from October to January, the next report they got from you was January of 1970, and not like October '69 when you resumed working again or when you resumed working. Now, how do we explain that? Boysesee the point that these facts --

A I don't see the point. No, I'm sorry, I don't.

Q Well, you tell me -- you told me now a while ago that you reported these conscientiously. You reported the first two conscientiously and it would be like a week - within a week after you started to work.

Now the beginning of this thing indicates that's so. But then, see, the last report was on July 9, '69. Then there was no further report until January, 1970 despite the fact that in the meantime you had stopped working namely, in August '69 and started again in October '69. Now, you started again October 24; '69. You didn't notify them in October, nor November nor December. That's what the letter indicates. Now, is the information in that letter wrong, do you think?

A As I see it, the dates I reported, your honor -- I'm sorry if I gave you the wrong impression. I reported dates when, as I thought, when they wanted them. Now these claims records, June '69 I started to go to work. I reported that. I reported on June 13. Then it says here again in our interview in July 9, 1969. Maybe I didn't report July 9, 1969 of my own choosing. Maybe they called me up and sent me a card and I went to see them again. I just didn't go down there --

Q Allright --

A -- According to this I was still working at the time.

And January 22, 1970 I say-the reminder card-I'm working for a few months already. As I read it here, I just filled out all the cards stating the times I worked. Now, I don't know if they're trying to infer that I was late with the cards or what but -- to the lest of me

Q Well this -- yes?

A -- to the best of my recollection I did everything -to the best of my recollection I did everything that was expected of me
from the Social Security board. That's the impression I got with them
and everybody and I was - I was sick at the time, too and yet I went
there.because they wanted.

Q Allright. Let me ask you this, now. Here is the Without Fault Questionnaire. Let me take it over to where you are.

OK. Let the record show now that we have gone over this together.

This exhibit 22 and it says the -- this is the Without Fault Questionnaire. Right? Now, question 2 - How did you report events which require holding back or stopping of payments and you answered here, or the answer attributed to you - this is signed by you - "I did not report back in March, 1970 because I did not think I was going to work a whole month or else I simply forgot because I do have memory lapses." Now, how does that square with the information you've just given me that you did report it?

A Now -- allright, this seems to be a direct contradiction.

There's no doubt about it. When I went there, if I may think of it --

Q Take your time. You don't have to answer me right now.

Now, collect your thoughts and take your time because we're not here,

Mr. McDevitt, to cross-examine you. I ask you these questions because

I want to be in a position to clarify these things and to write a

decision. We're not here to get you or anything. The only thing

we're here to get is your story and the facts. OK? So, take your time
and collect your thoughts.

A Thank you. Allright. This -- the only way, off hand,
I can contribute this statement - and I do remember this very well.
I remember going to the Social Security Board and this man - I remember a woman I had - was this a man? She walked out - I thought it was a woman. Look at the signature over here. Was this a woman?

Q Yes, yes. Signed by Mary Brodioti, or something like that?

A Wes

Q And that's February 25, 1972 and she signed it and the date that you signed it or the date indicated apparently in her hand-writing that your signature was put here was February 22, 1972 --

A Right.

Q -- and the stamp of the office here is February 22, 1974.

OK?

A Right.

Q -- So it is a woman. Right?

A Yes. I remember I went there -- I think it was when I was saying that I couldn't pay this but I didn't think I was at fault. I was talking to this interviewer and she asked me some questions and she said, how come you didn't report here, and I said, yes, I did report here and then she said, well, you didn't do this and I said, yes. I did this. And then she said, well, here, how come your report of -- you say you reported this date? I said, yes, I did. Allright, how about this date? Then she askend me - March? And I said I reported it. She said, no, you didn't report it. We have no record. I said, yes, I did report it. I'll go through the file and show you there's no report. You did not report on March. Now, if we thought that it would state that you reported an March in the file, it would be there. And then, I says, I'm sorry, ma'am, but this time I was in the office, not with my wife, I was there by myself and I didn't understand the significance as to why she was stressing that she was so sure that I didn't report. I said, well, then maybe I just wanted to -- she was indifferent, like I was lieing or I was stupid when I said I did report and she said it in suchna way that I might have, well, maybe I yelled -that I did have mental lapses, you know, I had a fractured skull and everything and maybe I got one day confused with the next and I said, well, if I didn't report it, well, maybe I just thought of -- didn't report it. So, when I came home to my wife -- I did send out cards -my wife is -- at times she went with me to the place and then I just didn't -- I didn't think nothing of it -- I didn't see the significance to it -- to have a debate, you know, hold up -- want money from me that I really don't have any of. And now, I didn't -- she was an elderly woman

and she was very forceful about the matter and, of course, I shouldnot have signed it, but I just -- well, then, she said, maybe you forget, it's no big deal, we all forget things. (UNINTELLIGIBLE) -- it was a big error on money. Now, as far as dictation is concerned (UNINTELLIGIBLE) dictation, I might have said something to that effect but I certainly didn't mean it. That was -- she made me unsure. And then she got me to the point that I thought I was in doubt but when I went to a calm mind and sure, I reported it. My wife was with me the day: I went to the neurologist. I went to the office there and they sent me to the tother doctor and I was going to the office because I wanted to see if there was a particular neurologist -- they sent me to this doctor. I was so impressed with him, the way he treated me - was looking at me and I couldn't afford my own declowas going to Bellevue Hospital --I was getting clinical neurological treatments and this guy was a specialist and I was trying to capitalize on seeing this among manbecause maybe he could help me and so I went to the Social Security office even after coming back -- when will I have my medical interview was in the back of my head whether this doctor could help me. I wasn't concerned about the government. And he tells me that you'll be notified and then I have another letter here and it's written down -- let me give you an example which I was decided against, they told me verbally, we'll get in touch with you. Well, we didn't get notified. Your honor, I can prove the accuracy of this statement. There's one letter here that I don't think has any significance or importance to what I'm talking about, that I don't recall ever receiving.

Q Now, Mr. McDevitt, about -- still on this exhibit 22 -- still on this thing that you signed for this woman interviewer, do you say that she was forceful and you really hadn't come to the office for the purpose of having this particular question out with her, you

came for something else that was on your mind and preoccupied you, and you finally figured, well, what the heck, if she says so, maybe I was wrong and so on and you signed it. That's --?

A Right, right.

Q Allright. Now, let me -- let me continue on this. But she has down here and you signed this as being so, she has more than that. She has more than you're saying that you did not report back in March, 1970 - period. She has you giving a reason. And the reason is, as I read before, because I either did not think I was going to work a whole month or else I simply forgot. I do have memory lapses. Now, do you remember saying anything to her at that time - because I did not think I was going to work a whole month?

A Well, no, no. I remember -- I'll do my best to reconsult. I remember - I remember the woman quite well. She was -- she was -- I was taken aback with her because I was -- I was really surprised with her because she was -- she was a regular -- she was the only one of all the people when I went there -- she took a firm, direct stand on anything. You know, everbody else was more or less, you know, open-minded. And she just said, we don't have it in our file and as we looked -- I was just taken aback and more or less didn't want to argue and she took it as a personal thing or something and I just -- I don't know, with my frame of mind, I guess I was trying to be polite, you know, whatever the case was and I -- you know.-- and then she made me -- I don't -- I'm not trying to get her in trouble or anything but she might have, you know, said, well, if you don't remember you can put this or suggested that you did have a head injury or something, although I did have mental -- it wasn't

serious -- I did have - I used to forget - but I did report March - definitely I did.

- Q Allright. Now, are you stating that it was she who may have suggested the reason?
  - A She might have --
  - Q Not that she did but who may have?
  - A -- it's a possibility. It is a possibility.
- Q So that you, yourself, don't remember distinctly yourself saying anything about you didn't think you were going to work a whole month?
  - A No I don't I don't --
- Q And you don't remember distinctly she suggesting this?
  - A I don't remember distinctly. I I --
- Q But from the way she was going, from the way the thing developed --
  - A Right.
- Q -- you say that it's possible that she may have suggested this --
  - A Right
  - Q -- and that you grasped on it --
- A -- possibly I forgot and you know, yeatrenmetring to hide it either, you know, something of that sort, you know, we're not trying to -- you know, everybody forgets, you know but that's allright. And then, actually, she gave me the opportunity to read whatever I signed.

Q Allright. Now, you say that after -after you signed thisand after you left, then you realized that your signing of that - that was not right and you had reported it. Right?

A Right.

Q Allright. Now, what made you realize that?

Well, when I went home and I told my wife - I was telling my wife about this abrupt woman or something and she's telling me I didn't report here, I didn't do this and then I got into detail with the wife and I said to her, didn't I report it when I went to work and my wife says, yes, when I was with you, you know. We went together and everything and then that made me feel good and then I didn't even bother with it any further. I didn't go back to bring my wife there and say you were wrong. I just didn't see no need to it. So then again they were sending me that they wanted money I guess or something -- that's when I started getting interested in this. It's just with the money money that I don't have - I don't have it. If I made 20-\$25,000 in, the last five years it's a lot of money. I say, I was going to - became very sick - very, very, very, off and on, I'm a very frustrated person at this time. I have my mind on other things -- I just wamp answers aren't to a T - it's just little things I might forget -- I was involved -- a sick person and forgetting things and I've been married and I didn't think I would get another job, I never thought I could be myself. I was athletically inclined -- after a while I was starting to go into a period of depression here and (UNINTELLIGIBLE) is very easy (UNINTELLIGIBLE).

Q You told me that the card - the card on the March,1970 employment must have been returned by you - must have been filled out and sent in by you within a week after your return to work in March,1970. Then you said you also went down with your wife --

A Yes.

Q -- and told about it? When was that?

A That would be - it would also fall within the week. The reason I went that with the wife was probably becasue there was mail being missed in the mail boxes in my building and I had to move the mail to the post office and I -- I went down myself.

Q You went down for what purpose?

A Just to notify them and ask if I could see that doctor again -- that neurologist - I wanted to see Dr. Fishner, Fishman or something --

Q Now, let me see if I understand you. You went down with your wife, for what purpose?

A To notify the Social Security --

Q Notify them about what?

A That I returned to work. But actually that was the reason for going there - my actual intent was to find out if I have another visit with this doctor for my health. That was my actual intent for going there.

Q And - and you say at that time you in fact did notify them that you returned to work.

A Yes, that is correct.

Q OK. How did you make out with respect to the neurologist?

A I -- well, they -- say wait intil - afterwards you'll be notified. You see, the doctor had - they didn't have the medical charts, but he'll let you know. I have another letter here which I don't know toe much significance it might carry but it's --

Q Let's - let's see. Is that the one that you referred to a little while ago?

A Yes, It's generally in the trend that someone's going to notify me and I was there -- but I thought I was there more than they

- 18 -41 wanted me to be and I found out that I'm not. But I metisied - this is -they'll get in touch with me or notify them when I stopped working and I always notified them right away when I stopped working. Q Allright. I'll tell you - let's receive this into evidence as exhibit 34. That'll be 34 Mr. McDevitt, you wait around after we're through and my assistant will make a copy of it and give you the original of it back. OK? Q Now, you indicated on this form that you filled out in connection with the alleged overpayment that there was a car loan - exhibit 21 - where they asked you to list your monthly expenses and

A Yes.

A Fine.

Q Right? When did you take that loan out?

you say, paying \$91 a month installment on car.

A Well - the loan - that loan was taken out over 2 years ago. That must have been taken out - no, 24 years ago.

Q Well, do you remember the month and year? When did you buy the car?

A If it's a three-year car loan -- I think I have about four more payment of so, so I guess it would be 2 -- the actual year I -- the actual month I dem't know. The wife takes care of that for me.

Q We're -- so far as you -- so far as you know, we're still talking about overpayment in the amount of, what, \$1921.20, is that it?

A Yes.

Q That's - that's still the amount in issue. There's been no occasion for them to make payments of anything to you where they withheld any of those payments so that that amount would have been

reduced by now. That's p that's still the amount?

1:

A That I'm aware of. According -- I didn't really check it, you know - I didn't ckeck it --

Q Right. But I mean there's been nothing that you received since then that would indicate that they say that the amount is different from that?

A No. no. no.

Q Ok. So, the last we heard that's what we're talking about - \$1921.20. Now, did you go over this refund questionmaire -- that's dated -- that's also dated February 22, 1972. Did you go over that with this woman that took the information from you on the Without Fault part? Do you remember?

A I don't remember.

Q Allright. Now, take a look at this exhibit 21. This gives your income and your usual household expenses --

A Right.

Q -- and it's sigmed by you. Allright. Now, take a look at that, will you, and tell me -- that was in March -- in February of '72. Now, will you update that fer me - both items - both the income and the outgo. How about the income?

A The income money?

Q Yes.

A Well, like this O this particular year I worked three months since January - this year.

Q 1973?

520

A Yes - I only worked three months and I started work

I think it would be - I must have started in July.

Q Then what happened before July?

A I couldn't get work. (UNINTELLIGIBLE) and plus I had a nose operation and that's it. I really had some medical and my nose operation and my hand -- but basically there was no work anyway. I mean, there was work for some but not for all.

- Q Do you belong to a union?
- A Yes, I do.
  - Q Which union is that?
  - A The Stonecutters Union, Local 84.
  - O Where is that?
- A They're down at 20th Street -- that's at 19th Street and Fifth Avenue.
  - Q And, do you get your jobs from them?
  - A Yes, I have.
- Q How do they work the hiring hall? First come, first served?

A No, not necessarily. No. They work it (UNINTELLIGIBLE)
Whoever they feel they should send out. -- That's a mistake here.
The rentlie cheaper than here. It's \$130. I have a baby, you know,
a new baby, expenses do go up - I have a 15 month old baby.

Q Boy or girl?

A I have a little boy. Would you care to -- I think about it - naturally things went up, I mean, my wife's spending, you know, much more money with food \$15, \$20 more a week, you know, clothing, and other things, you know, for the baby. I don't see those records here saying getting clothes for the baby and stuff like that - I don't see that she put down anything. I have medical bills - I do take MIP out --

Q Does HIP cover the family?

A Yes. I had HIP before I got married and I had it through my father and I couldn't afford to cover the whole family but I just kept.

it when I got married and I have -- in the Union I have the policy that covers the family but I m a person that gets sick a let and my wife says that I don't get rid of HIP because of the doctof's bills.

Q Now, what you have from the Union - what, like the Blue Cross, Blue Shield sort of thing --

A Yes, yes.

Q -- where you pay only 20% and the union - the rest is paid by - through the Union?

A No, Blue Cross - I have Blue Cross is paid through the Union. I don't pay it. It's paid. It's deducted from my --

Q OK. That's Blue Cross. How about Blue Shield? How about that?

A No, I don't have it.

O That's the dector --

A Yes, the doctor plan but I dom't know which it is.

Q Well, then, are you testifying that your medical expenses are completely covered?

A with the exception of the baby. The pediatrician is not covered.

Q Well, with the exception of having a -- oh, of seeing the baby?

A Visiting -- yes. Because it's not - it's regular routine visits End they don't cover that. -- Well, why should she spend \$50 here, it sgys here, putting me at \$50.a week for food? I got \$120 - that comes out to \$120.

Q How about the rest of those figures?

A The clothing is mone, but this is my clothing. I mean, what they put down I don't knew what she spends on clothes. It's a bib expense, you know, with the baby. One week I had to buy a let of

new things. You know, I'm in debt. I'm just telling you --

45

Q How much are you in debt?

A Oh, I'm in considerable debt - a few thousand dollars - I don't know how much. Well, legal debts I have the car payments.

I have more family debts. I owe my father money; \$2,500 I owe my brotherin-law about \$500; I owe one of my brothers: \$100 I owe another brother \$50. No, things are not good.

Q What's the total?

A Well, I would take it - if that counts on what I owe for the car bighets - that I can't tell you - it's \$100.

Q What would you say your total indebtedness was?

A I'd say in the area of \$3,000. I'd \$80 about 3000.

Q Allright. Now, what has been your income this year so far?

A My income has been completely -- it's been a very bad year. I worked three -- I tell you my income this year, as of now it's a very bad year - about \$2000. I got compensation there for about three months. I was sick. I mean, as far as work, I'm not getting compensation payments anymore.

Q You say you were on compensation for three months?

This year?

A Yes. It was January or February - I got hurt - I had a nose operation and hand operation - January this year. Yes, this year; right. I had three months, right.

Q Now, tell me, have you had any other source of income this year?

A Well, there was food stamps - I was in on food stamps.

I got an emergency fund that they gave me that didn't cost me anything.

- Q Emergency fund?
- A Yes, emergency --
- Q Where is that from the City?

A Yes. I had that from the City of New York, right. At first I had to pay for it but then they gave it to me free. I was having no income there. Compensation was supposed to pay me, but they weren't paying me on a weekly basis. They once had to pay me retroactive a bigger sum. I had no money to buy --

- Q Any other sources of income?
- A No.
- Q Food stamps, emergency fund, compensation and about \$2000. from your job. Is that right?

A Yes, this year. Right, right, right, about \$2000, I told you. It's pret y fair - I told you a few things, right?

- Q Right --
- A I worked about \$2000.
- Q You indicate in the file here that after March, 1970 -you worked from March, 1970 to February 2, 1971; then you were out
  until April 22, 1971 and then you worked from April 22, 1971 to and
  can you tell me when, by the in this form here, exhibit 20, you say
  to the present and that was filled out May 13, '71.

A Well, I - no. From that point to a date, I can't tell

you -- from that point I was just working and then out - working - out 
working. Well, I really did not work very hard at it.

Q OK. How do you get these jobs? Through the Union? Do you have to shape up or do they call you?

A Well, either you go shape up or you try to get in touch with the business agent and if there's work, he'll send you to it.

- Q Who's your business agent?
- A Edward Rickards R-I-C-K-A-R-D-S. And if you can get a job in the Union without seeing the business agent, you can do it but the chances are you can't (UNINTELLIGIBLE).
- Q Do you get any benefits from the Union at all aside from these medical things? I mean money.
  - A No, no, nothing.
- Q Well, I can't think of anything else to ask. Is there anything you want to add?

A The only thing I want to add is that I honestly feel both at the time and until today, I didn't do anything wrong. But I thought - I thought I was applying the knowledge I had at the end to do the right thing. By all means, I didn't have any intention of --

- Q Do the right thing and what do you have in mind there?
- A By doing the right thing I mean applying for more. I wouldn't want anything unless I was entitled to it. If I thought I was getting anything I wasn't entitled to, I would have refused it. Anything that I received I was under the impression that it was for doctors and if they gave me, you know, then I was entitled to it. At the time -- I got very sick at that time.
  - Q Well, what did you think that money was for?
- myself to help me give me incentive to help me get back. I was out of work for three years. To help me financially to give me the incentive to keep on working or something. To help me financially. Even with that I was financially inept. I was still doing at the time I was still doing my regular work. I was getting

working on the ground, you know, 95% of my work was scaffold work and I was working on the ground and this - while that work was available - that's as long as I had a job. I guess I was, you know -- I never regained my hearing back.

Q But you were paid - you were paid the same amount. Is that right?

- A By my job?
- Q Yes.
- A Yes, sir, I was. I was paid the normal wages.
- Q Now, up until the time that they stopped paying you and stated and told you that you had been overpaid, that there was an overpayment, they there had been no cessation of benefits up until then even though you had previously reported twice that you had been working. Is that right?
  - A I'm sorry. I don't understand.
- Q Before you reported this working period, there were two other times when you reported that you were working. Right?
  - A Yes.
- Q After neither of those prior reports, did they stop any benefits of yours, did they?
  - A No, they never stopped anything.
  - Q That was where the trial work period --
  - A Right, right.
- Q -- was involved. So the first time that they stopped was when they stopped and told you that there had been an overpayment of 1900 some odd dollars?

A That's correct. They sent me a certified mail and then

I went down to the - to get a registered letter.

- Q And that do you remember when that letter was? The date of that letter?
  - A I'm sorry I don't but it was -- the letter --
  - Q Sometimes in 1972, was it?
- A I think it was sent before then personally by somebody from the office. I wasn't there. The wife got the letter.
  - Q But that was sometime around 1972?--
  - A Yes.
  - Q as was it?
  - A Yes, yes, yes.
- Q So that it was more than two years after you had -- more than two years after that Jaunary, 1970 date when you had oh, it was about 2 years from the March, 1970 date when you had started to work again?
  - A It was about I I guess it --
- Q Well, it was 1972 and you started to work in March of 1970, so there was a period of about --
  - A Yeah --
- Q -- two years involved there. Now, in that period of two years, or in that period of time, did you ever go back to the district office and tell them that you were still receiving checks?
- A I told I told them I recall I phoned them they inquired about doctor's appointments and I will be notified don't worry I just they'il notify you. They have you on record you will be notified.
  - Q That's about the doctor's appointment.
- A Well, I was under the impression that I was going to be seen by a doctor, you know, still being under that I wanted to see the doctor I was. Well, as I understood it then, they had me scheduled

for this doctor to see periodically. That's how I understood it. 50

Now, although I only saw him a few times.

- Q No, what I'm -- my question was after March, 1970 --
- A Yes
- Q -- and right up to the time that you got that letter telling you that you had been overpaid --
  - A Right
- Q -- so that we're talking now of a period of about two years --
  - A Right
- Q During that time, did you ever notify the district office that you were receiving benefit-checks that you were receiving disability payments?

A I don't - I'm not sure if I went there personally. I'm not sure and it's possible - it's possible - I'm not sure. But I do recall calling - just calling up and inquiring in a general sense of - telling them I'm receiving benefits - I'm on the trial period, whatever it may consist of and, you know, will I be hearing and when will I be seeing the doctor - questions in that line and now I - I remember getting the reply that you will be notified in time, you know, you'll be notified. They II get - the doctor will get in touch - something that, in any event, don't worry, they'll get in touch with you. And that's the impression I got out of it.

Q Well, now, that's - that's with respect to the doctor.

But how about with respect to the checks that --

A This was in respect to the doctor as well as the checks.

That I was on the trial work period and I was receiving checks and I

was waiting to be called by the doctor. I haven't got called. I mean, the doctor's - as I understand it, your honor, the doctor's the one who allows the checks and I was called up in regards to that. He's the one that okays you're having disability checks. And, and, as I said, it was in that context that I talked on the telephone. Now, as I said, earlier, if I actually went in there again, I really don't know. I don't really know. It's possible, it might be probable, but I really don't know. Because I was --

Q But it's your impression that you did mention that you were receiving checks?

A Yes, yes, yes - yes. I was down at the Social Security there many times.

would have a right to inspect them - to look at them just as you looked at these and offer your comments. I'm asking you now whether, should I obtain - should I decide to obtain additional records, do you want to exercise that right or do you want to tell me now for me to go ahead and use them without your seeing them and whatever answer you give makes not a bit of difference to me.

A Any financial records your more than welcome to see as mine.

Q Well, I don't - I don't know exactly what I even might have in mind now, but, so the question will have to be general and I tell you if you have any hesitation about it, then tell me that you want to see - want to inspect them.

A Off hand, I can't think of anything that I would want to see - there's nothing I--

Q Then are you saying, then, that if I should obtain additional records, I can go ahead and use them --

A Yes.

Q -- without your looking at them?

A Yes, yes, I mean, yes. You have my permission to look at anything.

ADMINISTRATIVE LAW JUDGE: OK. Allright, then, there being nothing else, the hearing will be closed. I'll try to get my decision out just as soon as I can but when that'll be I couldn't say. We're really backed up. OK?

A Fine.

(The hearing was closed at 11:50 AM on October 15, 1973).

HEARING ASSISTANT: January 30, 1974. The record is reopened to admit into evidence the following exhibit:

Exhibit 35 - Earnings Record

There being nothing further, the record is closed.

#### CERTIFICATION

I have read the foregoing transcript and hereby certify that it is a true and complete record of the hearing.

He Herse Transcriber



#### APPLICATION FOR DISABILITY INSURANCE BENEFITS

Form approved.

Budget Bureau No. 72-R530 7

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NOTICE.—(a) Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act, or (b) whoever, having received a payment for the use and benefit of another person, knowingly and willfully uses such payment for other than the person for whom it is received, is subject, under the Social Security Act, to a fine of not more than \$1,000 or 1 year's imprisonment, or both.

I hereby apply for a period of disability and/or all insurance benefits payable to me under Title II of the Social Security Act, as amended. 1. Enter your full name (Check one) Enter your Social Security number (I/ none or unknown so indicate) Male Michael J McDevity Female 102 34 4801

Inter your date of birth Enter the name of the City and State or Foreign Country where you were 2. Enter your date of birth (Show month, day, and year) 07/27/44 3. (a) Have you (or has someone on your behalf) ever filed an application for monthly social security benefits before? Yes (If "Yes," answer (b), (c), and (d). If "No," go on to item 4). (b) Kind of claim filed (c) Enter name of person on whose earnings record you filed other (d) Enter Social Security Number of application(s) person named in (c) What is your disability? (Briefly describe your impairment, that is, the injury or illness that prevents, or has prevented, you from working.) Fracture Skull 5. (a) When did you become unable to work because of your disability? (b) Are you still disabled? (H "No," answer (c).) (c) If you are no longer disabled, enter the date you were again able to work. Check the first block which applies to you. (d) Confined in a chair (Including wheel chair) (a) Confined in a medical institution other than a general hospital (e) None of the above but unable to go outside (f) \_\_\_ Able to go oursion or device Able to go outside but only with help of (b) Patient in a general hospital (g) Able to go outside without help Confined in bed at home FORM OA-C 16 (7.66)

	) Have you tiled (or do you	intend to file) a claim for disabili	ity benefits		. ,	No.
	under any workmen's comp	pensation law or plan?		LJ'	res (	<sup>2</sup> 54
	(If "Yes," answer (b). If	"No," go on to item 8.)				
1	b) If you have filed such a c	laim, has there been a decision o	n the claim?		Yes [	] No
	(If "Yes," answer(c). If					
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,				ie such a	s hi-weekly	or
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Ī		my, Navy, etc.), country served (		.) and date	s of service.	erin kalanan
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	(c) Have you received, or do Federal agency?	you expect to receive, a benefit	from any other		Y+4	☐ No
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	mploy!	ment income. If none, unite "Nor	••	**		15 60 60	
5. H	How much have you earned so far this year? (I/ none, write "None")						
6. (a	(a) Are you married?  (If "Yes," give the following information about your wife or busband.)						
	WIFE'S MAIDEN NAME OR HUSBAND'S NAME		(If unknown	DATE OF MARRIAGE	If husband or wife is age 62 or or or is filing for disability benefit onter his or her Social Security h		
4	LIND	la Ray Rodrigue	2 06/16/42 0	106/07	uMC		
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	to the Social Security Administration or to the State application or your continuing disability, any medicabut your disability?	agency that may review this ul records or other information	n /ves	☐ Nô
	The events listed below may affect your entitlement  (a) Your MEDICAL CONDITION IMPROVES so to yet returned to work.  (b) You GO TO WORK whether as an employee of (c) You apply for periodic benefits under any wollf you are now hospitalized —	that you would be able to wor or a self-employed person. orkmen's compensation law or	k, even though	you have not
	(d) You are DISCHARGED FROM THE HOSPITA		1	
	Do you agree to notify the Social Security Administrary of the above events occur?	ration promptly it	Yes	∏ No
	Answer question 22 only if (a) you are at least age currently entitled to a reduced old-age insurance be least age 62 (or widows at least age 60) may be elipreduced benefits your payments will be permanently several factors such as, your age, whether or not you the first month of your entitlement to benefits.	nefit or a reduced widow's in gible for reduced retirement be reduced. The amount of red our claim for disability insura	surance benefit benefits. If you action will depe	. Persons a accept such end upon
	Do you wish this to be considered an application to which you may be eligible?	r any reduced benefits for	Yes	No
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OTHER BEN enter his findings as to non-disability factors assuming the A/N holder has been under a disability which began on the DO CODE date indicated the Claims Authoriter will correct these entires and award benefits as necessary to conform with the disability determination and with his non-disability. NEW YORK 33 NY 134 The Claims Representative when preparing this form will 11.19 91.14 BLOC NO 144,00 BENEFIT 127.40 CONTROL ENTITIEMENT 11/53 144.00E - 13° .40l II REMARKS 104-34 -456 TINE ACCOUNT NUMBER inding: REFERENCE "as defined in Tale II of the ACCOUNT NUME Z MONTHLY BENEFIT TYPE GDN CUS INST REP PAYEE 02/68/144.00 RELATIONSHIP 7 7 4 04/28/-7 3116 0411 OF 0NS at and persuant 07/27/4/211/24/67 ATE CLAIM The term than me denter con number tactors FAIL OF 11.11.13 INITIAL ENTITLEMENT DATA \$4.2400 EVE 3 \*\*\* MICHAFL J MCDEVITT CALP STOKES STATES Cum opposed by Comproler Genral, U.S. MICHAEL J YLDEVITT A . X . X . . . EARN FORM OA CIOIDC ... ... 334200 LAC 1.11.1 SYM 0 E N

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Social Security Administration

### CONTINUATION SHEET FOR DISABILITY DETERMINATION

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NOTE. --- Use this form only when necessary for continuation of Item 32 of "DISABILITY DETERMINATION" or Item 3 of "CESSATION OR CONTINUANCE OF DISABILITY"

NAME OF WASE EARNER (IF BISABLED CHILD FILING) SOCIAL SECURITY ACCOUNT NO.

Michael J. McLevitt

102 34 4801

This 24 year old construction worker with a 10th grade education alleges inability to work since 4/28/67 because of an accident that he sustained. He states that he was struck on the head by a hard object and was taken to the Bellevue Hospital. Since the accident there has been complaint of headaches and dizziness which come on spontaneously.

Neumlogical examination on February 13, 1968 indicates that the claimant sustained a severe head injury with a basal skull fracture which severed the Toranial nerve. There are complaints of headaches and dizziness. Examination revealed findings of a hysterical nature. Claimant was encouraged to do some work on a part-time basis in the future since otherwise the consultant physician believes his complaints will become permanent. Consultative examination performed on January 23, 1968 by Dr. Benjamin Rice indicates that the claimant shows total absence of ear and bone conduction in the left ear and auditory acuity totally absent in the left ear; and there is a slight loss of use of the right ear. There are attacks of vertigo which is daily of severe involvement. Gait is slightly affected. The claimant when walking veers to the left after walking the distance of 30 feet. The consultative physician indicates that he cannot work. The claimant shows headaches, dizzv spells and spontaneous falling on swift turning his head to either right or left. He therefore walks in a straight line. Claimant is able to walk slowly by looking straight ahead, bending causes an immediate tendency to fall to the left, claimant is allowed to stand but there is occasional swaying, unable to lift because of dizziness, fine movements of hands and fingers are difficult.

Accordingly, the medical evidence indicate that the claimant does not show any severe physical impairment, however the claimant because of dissiness is unable to do sustained type of activity. The claimant in order to keep from alling must look straight ahead. He is to avoid lifting, bending or swift turning of his neck. Based on the medical evidence in the file claimant shows a severe impairment complicated by a hysterical nature. Neurological examination discloses that the claimant is being encouraged to work on a part-time basis. The evidence in the file indicates that the claimant is suffering from a severe impairment that would preclude substantial gainful activity since the claimant was last able to work substantially on 4/28/67.





TORM \$5A-833 (7-65)

### CESSATION OR CONTINUANCE OF DISABILITY

1. SOCIAL SECURITY ACCOUNT NO. 102–34–4801

A NAME OF WAGE EARNER (If disabled child close)  6. DISTRICT OFFICE ADDRESS /3 87 3F M1 C 4,  WEXNIOW YOR, New York 10033  8. STATE
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# FOR DISABILITY DETERMINATION

NOTE. -- Use this form only when necessary for continuation of Item 32 of "DISABILITY DETERMINATION" or Item 3 of "CESSATION OR CONTINUANCE OF DISABILITY".

NAME

Michael J. McDevitt

102-34-4801

4129/07

This claimant has been under a disability since 4/28/67 with a diagnosis of status post basal skull fracture with loss of hearing on the left and vertigo. The scheduled reexamination date has been reached.

The claimant was interviewed on 3/17/69. He indicates that in 2/69 he fell in thehouse and cut the tendons in his fingers and arms by falling through a glass door. He feels that his condition has improved and that he is able to control his walking better now.

On 4/14/69 a consultative examination was performed by a Neurologist. It is noted at this time that he was standing on a stool painting about three weeks ago, when he felt somewhat lightheaded and fell striking the left side of his jaw against a radiator. The jaw was fractured and at the present time his teeth are wired.

The claimant still has episodes of dizziness at which time he has the sensation of weakness all over. His general physical and neurological examination were essentially unchanged from a year ago. He continues to give way on muscle testing. He performs repetitive actions slowly and deliberately. He veers from side to side on tendem walking, but has a normal gait. It is felt that his dizzy spells may possibly represent a minimal labyrinthine dysfunction as a result of his head injury. He continues to have left hearing loss secondary to the injury.

Although the claimant's condition is somewhat improved, there is essentially no change on neurological examination. He continues to have dizzy spells with episodes of falling. Therefore, disability is found to be continuing.

#### CESSATION OR CONTINUANCE OF DISABILITY

Form Pageomed No. 72 80531

1. \$650AL SECURITY ACCOUNT NO. 102-34-4801

Wish and I Wallactiff				ER (H disabled child case)
Michael J. McDevitt	7/27/14		6. DISTRICT OFFICE ADDRE	
36 Sickles Street New York, New York 10040	4/28/67		4292 Broadway	
New York, New York 10040	1 4/20/07		s sian York, N,	10033
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## CONTINUATION SHEET FOR DISABILITY DETERMINATION

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	rm only when necessary for continuating CONTINUANCE OF DISABILITY".	ion of Item 32 of "DISABILITY DETERMINATION
Michael J. Mc	NAME OF WAGE EARNER(IF A	UXILIARY FILING) SOCIAL SECURITY ACCOUNT NO DATE

This claimant has been under a disability since 4/28/67 with a diagnosis of status post basal skull fracture with loss of hearing on the left and vertigo. Work activity has been reported.

On 6/3/69, the claimant began work as a stone setter earning \$232 per week. He averages 7 hours per day, 35 hours per week. He indicates that the work involved usually requires climbing on scaffold, however, since his foreman is aware of his condition, he does not require that he work on scaffolds. He has lost approximately 2 days from work since 6/3/69. He continues to take pain killing drugs daily and still has frequent headaches and dizzy spells.

A neurological consultation held less than two months prior to the start of work activity revealed that the claimant continued to have significant residuals of his condition. In view of the fact that he is not able to do all of the duties required by the job, and continues to have frequent headaches and dizzy spells, disability is found to be continuing.





#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SOCIAL SECURITY ADMINISTRATION

BALTIMORE, MARYLAND 21241

REFER TO:

DI:EP:E 102-34-4801 HA BUREAU OF DISABILITY INSURANCE

Mr. Michael J. McDevitt 36 Sickles St. New York NY 10040

Dear Mr. McDevitt:

Our records show you received \$1,921.20 more in social security benefits than you should have. This amount represents payment made to you for August 1970 through June 1971.

The law provides that an individual's disability period shall end if he becomes able to do substantial gainful work. The law class provides that an individual will receive his benefit payments for the mouth his disability ends and the following two mouths. But until a person has wedged in at least nine mouths is a decision made as to whether he has because able to do substantial gainful work. The evidence in your case shows that you have worked in at least nine mouths and that you became able to do substantial gainful work in May 1970. Accordingly, the last disability benefit check to which you are entitled is for the mouth of July 1970.

You should refund the amount shown above within 30 days from the receipt of this letter. Please make your check or money order payable to "Social Security Administration, Claim No. 103-34-4801 HA," and send it to us in the enclosed envelope.

If your condition again prevents you from doing substantial gainful work before age 65, you should get in touch with your social security office about filing a new application for disability benefits. If you apply promptly and are again found entitled to disability benefits, your benefit payments may start with the first full month in which you wasse again disabled (see page 26 of the Rights and Responsibilities of Those Who Receive Social Security Disability Benefits booklet-658-140).

EXHIBIT 6

If you believe that this determination is not correct, you may request that your case be reexamined. If you want this reconsideration, you must request it not later than six months from the date of this notice. You may make any such request through any social security office. If additional evidence is available, you should submit it with your request.

The law requires that an overpayment of benefits must be recovered, unless the following two conditions are met:

- 1. The overpayment was made through no fault of your own; and
- 2. Paying back the overpayment would beep you from meeting your ordinary and necessary living expenses, or would be unfair for some other reason. (If repayment will cause you serious financial hardship, it will be necessary for you to submit a statement of your income from all sources as well as your expenses and other debts.)

If you believe you meet both of the above conditions, you should call, wisit, or write any social security office to emplain your position. Please take this letter with you if you visit the office.

Sincerely yours,

F. H. Sheel, Director Division of Evaluation and Authorisation

Envelope

#### CESSATION OR CONTINUANCE OF DISABILITY

1. SOCIAL SECURITY ACCOUNT NO 102-34-4801

1.1 .

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Michael McDevitt	3. DATE OF MIRTH	7	4. NAME OF WAGE EARNER (If disabled child case)
36 Sickles St.	S. DATE DISARE	MEGAN	6. DISTRICT OFFICE ADDRESS 429 B
New York, NY 10040	9/28/67		
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O. REASON FOR CONTINUANCE:			
WORK HOT PANIMATED IMPAIRMENT TYPE		n m HO	WORK ACTIVITY-IMPAIRMENT STILL DISABLING
(A) DISABLING (New Med. Erid.)	, t	011111	e when new med. evid. received)
WORK IS NOT SGA NO MEDICAL ISSUE	(	E) STA	TUTORY BLINDNESS-DIB CESSATION
(B) (Lis when no new med evid received)		(F) D BND	HI/IDUAL HOSPITALIZED
WORK IS NOT SGA-IMPAIRMENT STILL DISABLING		_	HER (Explain)
(C) (the when new med evid received)		6)U 011	tex (2.2pmm)
1. WORK ACTIVITY DATA-CONTINUANCES AND CESSATIONS:		n —	AND MANUEL CONTINUES
(A) NO WORK ACTIVITY		North	MO(5) IN TWP/ WORK CONTINUING
(B) TWP COMPLETED/ WORK CONTINUING			DRKEDANC(S) IN TWP/WORK STOPPED
(C) TWP COMPLETED/ WORK STOPPED		(F) WC	ORKED MO(5) NO TWP
2. DIAGNOSIS	23. MOB CODE 3	4. REMARI	S PUBLISH M
11 Fracture: hearingloss votion	G		EXHIRII \
25 DIARY DATE   Z6 DISABILITY ENDAINER /	27 DATE	28 DISABI	LITY EXAMINER 29 DATE
□ TWP		20	1 1.1.
☐ WED —	1	X	en budge - 30 6/16/7
ADD WANT TO BE MOTPHER BY			and company
APPLICANT TO BE NOTIFIED BY  30 31 LTR/PAR. NO. \	32 CONT/CESS CE	006 (11	RETURN V ISA CAMERICALY
12011/12010/21/2011	7) /		COOL COOL CH CH CH
DBDI M PC-DBS 1384 3/10 1/10 39/	W-1		A Cor Cor Cor
AT FOR DE DAY LIFE			ACCO CONTROL

RR;edm RCH 3

## CONTINUATION SHEET FOR DISABILITY DETERMINATION

67

NOTE.—Use this form only when necessary for continuation of Item 32 of "DISABILITY DETERMINATION" or "CESSATION OR CONTINUANCE OF DISABILITY".

NAME

Michael HcDevitt

NAME OF WAGE EARNERIIF AUXILIARY FILING) SOCIAL SECURITY NUMBER 102-34-4801

The application was filed on 11/24/67; a determination of allowance was prepared on 4/5/68. The diagnosis is: Status Post skull fracture, loss of hearing - left, vertigo.

The file was returned for investigation of work activity. The latest determination of continuance of disability was prepared on 2/24/70. The evidence in the file shows that the applicant worked from 6/3/69 through 8/22/69, from 10/24/69 through 1/20/70, from 3/18/70 to the present time. He is employed as a stone setter in the construction line. He earns \$150.00 per week. He states that he was injured in an accident on 2/19/71, and returned to work on 4/22/71. Also, he was out of work from 7/20/70 until 8/12/70, due to his condition.

The evidence in the file shows that the applicant completed a trial work period in 4/7/70. Since 3/18/70, he has been working as a stone setter, earning \$150.00 per week. He did not work from 2/19/71 until 4/22/71, when he was hurt on the job; however, he has returned to work, and is currently porking. A trial work period was completed in 4/70. Therefore, away determined that the applicant's disability ceased in 5/70, after completion of the trial work period.

U

NOV 1 1 1970

DI:R:4K-2 102-34-4801

Mr. Michael J. McDevitt 36 Sickles Street New York, New York 10040

Dear Mr. McDevitt:

We have not received a reply to our previous letter telling you about the \$1921.20 in social security benefits you must repay.

If you cannot refund the full amount now, you should submit a partial payment. With this payment send an explanation of your circumstances, and a definite plan for paying the balance. Your plan should show the amount you will pay each month, and the date on which you will make each payment. The initial payment should be made within 30 days from the receipt of this letter. Please make your check or money order payable to "Social Security Administration, Claim No. 102-34-4801 NA," and send it to us in the enclosed envelope.

Unless we hear from you within 30 days, it may be macassary to refer this matter to the General Accounting Office for further collection action.

If you have questions about your claim, you should get in touch with any social security office. Most questions can be handled by telephone or mail. If you visit the office, however, please take this letter with you.

Sincerely yours,

C. C. Hall Assistant Director

Enclosure: Envelope " 130 de ca. 4 9 3.

FOR LE GOPY

B SURBAN	DATE	aliana, a	Inibil	
				 <b>-</b>



## DEPARTMENT OF HEALTH EDUCATION, AND WELFARE SOCIAL SECURITY ADMINISTRATION

BALTIMORE MARYLAND 21241

1 2 9 1872

BUREAU (\*)
DISABILITY INSURANCE

102-34-4801

NOTICE OF RECONSIDERATION DETERMINATION

Mr. Michael J. Nobevitt 36 Sickles Street Hew York, New York 10010

Dear Mr. McDevitt:

We have reconsidered our request for refund of the everpagment in the smount of \$1,921.20.

The Social Security Act provides that removery of an everpayment may be waived if the everpaid person is without fault in causing the everpayment and if repayment would keep that person from meeting his swilnessy and necessary living expenses. If the everpaid person is not without fault, waiver is not applicable regardless of his financial siremeteness.

We have corefully considered your statements and other evidence in our records and find that we cannot relieve you of the responsibility of repayment. Our record shows that you did not report your setum to mark in March 1970. When you filed for benefits in Herember 1967 you agreed to notify the administration promptly if you returned to any type of work. Since you failed to notify us timely, we cannot find you to be without fault and repayment is required.

We realise that you are makin to refund the everyopeant at this time. When your circumstances improve, it will be to your adventage to repay the overpayment as soon as possible to prevent the withhelding of any become payable on your assemble in the felling.

If you believe that the reconsideration @resmination is not correct, you may request a bearing before a hearing examiner of the Bureau of Bearings and Appeals. If you want-a hearing, you must request it not later than 6 months from the date of this notice. You should make any such request through your libral social security office. Reed the endlosed leaflet BHA-1 for a full explanation of your right to appeal.

EXHIBIT 9

Robert J. Bavall Biroctor, Mivision of Reconsideration

Enclosures (



#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE SOCIAL SECURITY ADMINISTRATION BALTIMORE MARYLAND 21241

BUDEAU OF DISABILITY INSURANCE

DI:R:LK-2 102-34-4801

Mr. Michael J. McDevitt 30 Sickles Street New York, Hew York 10010

Dear Mr. McDavitt:

As you requested, your claim has been reconsidered. It has been found that the original decision was correct and in accordance with the law and regulations. The enclosed Reconsideration Determination fully explains the decision reached.

This reconsideration was made by a member of a specially designated staff, different from the staff that made the original decision, and specially trained in the handling of reconsiderations. This staff made an independent and thorough examination of all the evidence on record about you

If you believe that the Reconsideration Determination is not correct, you may request a hearing before an administrative law judge (formerly hearing examiner) of the Bureau of Hearings and Appeals. If you want a hearing you must request it not later than 6 months from the date of this notice. You should make such request through any social security office. Please read the enclosed leaflet for a full explanation of your right to appeal.

Sincerely yours,

C. C. Hall

CeHall

Assistant Director

BHA-1

Mwiegard: dbs 11-29-72

Enclosures: 0A-D1227

EXHIBIT 10

BEX-C844 (9-72)

## RECONSIDERATION DETERMINATION

Bureau of Disability Insurance	4292 Broad	way New York 10033
Tiches) J. Fellovitt	0 + 1 + 104	102-311-11801
NAME OF CLASSIANS		TYPE OF CLAIM
lichnel J. eleritt		Disability

On June 16, 1971, it was determined that ir. icDevitt became able to do substantial cainful work in lay 1970 and that disability insurance benefits were payable throw h July 1970. Contally benefits of 4165.60 for August 1970 through less for 4170 and 187.20 for Jenuary 1971 throw h June 1971 were paid to Er. Edlevitt 19814 1,001.20. Fothers dated August 31, 1971 and Tovember 17, 1971 were sent to Tr. Feber'tt requesting relaid of this amount.

A remost for valver consideration was filed February 22, 1972. Ir. McDevita was notified on April 20, 1972 that the Social Security Administration could not waive recovery of his indebtedness since he was not without fault in causing the incorrect naggest.

r. elevitt has objected to this determination. Therefore, the question rou to be resolved in whether the previous determination was proper and in accordance title the law.

practice 20%(b) of the Social Security Act permits waiver of recovery of all every ment when both of the following conditions are net:

- 1. The overpula person is without fault, and
- 2. Add to the or recovery would either:
  - (a) Ledent the purpose of Title II of the Act, or (b) to against equity and good conscience.

Section 164. 67 of the minitions to. It of the Social Security Act provides that The last of the last fault applies only to the individual. (Although the Abd introduced in the fault in making the payment, the fact does not relicable of the last is not without fault.) That constitutes fault depends upon that her the from thos the overpayment resulted from:

- 1. Its incorrect state and ande by the everpaid individual which he know or the de here here to be incorrect; or
- 2. Primar of Wid some lolary to famish information which he know or should have known to be reterial; or

EXHIBIT 10

3. Acceptance by the overpaid individual of a payment which he either knew or could have been expected to know was incorrect.

Since fault is specifically defined, there is no choice as to what constitutes fault and the facts have to be examined to determine whether they bring a particular situation into the scope of any of the types of circumstances prescribed by Section help. 507 of the regulations.

her Ir. IcDevitt applied for benefits on November 24, 1967, he was advised of the read to report his work activity and agreed to promptly report any return to work. Feriodically, the Advinistration sends each disability insurance beneficiary a reminder to report any work activity regardless of the amount earned.

In June 1969, ir. Iclaritt started to work. This work activity was reported on June 13, 1969 and a min in our interview with him on July 9, 1969. Ca. January 22, 1970, ar. allevitt completed reminder cards reporting he had worked from June 3, 1969 through August 22, 1969 and again from October 24, 1969 through carmary 20, 1970. Deced on this information, it was then determined to he was still disabled and his benefits would continue. A thorough review of all the records on his claim shows that Ir. Indevitt did not notify the administration when he returned to work in Barch 1970. In. Eclevitt did not give this information until May 12, 1971 when he was contacted by the administration after carmines had been possed to his wage record. Since he did not report this work timely, we were unable to determine his trial work period in time to prevent the overpowent. In. Televitt cannot be found without fault. Therefore, the previous cotormination is hereby affirmed, and recovery of the overpaid according to required.

Authority - Section 20%(b) of the Social Security Act as amended, Regulation to. 40%.507 of Title 20, Code of Tadaral Regulations.

Robert J. Duvall Director, Division of Reconsideration BUREAU OF HEARINGS AND APPEALS

#### REQUEST FOR HEARING

Take or mail original and all copies to your local Social Security office. IMANT'S NAME CLAIM FOR Entitlement to Disability Benefits (97) ICHARL WAGE EARNER'S NAME (Leave blank if same as above) Continuance of Disability Benefits (98) SOCIAL SECURITY NUMBER 07-34-4801 I disagree with the determination made on the above claim and request a hearing before a hearing examiner of the Bureau of Hearings and Appeals. My reasons for disagreement are: NOTIFY SOCIAL SECURITY ABOUT MARCH OF 1970 Check one of the Vollowing Check ONLY ONE of the statements below I have additional evidence to submit. I wish to appear in person before the (Attach such evidence to this form or forward to the Social Security Office I waive my right to appear and give within 10 days.) evidence, and hereby request a decision I have no additional evidence to submit on the evidence before the hearing examiner. (Either the claimant or representative should sign-Enter addresses for both. If claimant's representative is Signed by not an attorney, complete Form SSA-1696) SIGNATURE OR NAME OF CLAIMANT'S REPRESENTATIVE CLAIMANT'S SIGNATURE RESS CITY. STATE, AND ZIP CODE TELEPHONE NUMBER Claimant should not fill in below this line Is this request filed within 6 months of the reconsideration determination? Yes PHOBAPLE If "No" is checked. (1) attach claimant's explanation for delay, (2) attach any pertinent letter, material, or information in the Social Security Office. ACKNOWLEDGMENT, OF REQUEST FOR HEARING . 3/28/73 at WASHINGTON Your request for a hearing was filed on \_ The hearing examiner will notify you of the time and place of the hearing at least 10 days prior to the date which V will be set for the hearing. Hearing 10 For the Social Security Administration Hearing Examiner Copy Hearing Examiner-Disability file in 8DI TELETYPE BOI BALTIMORE, MD Claim File Copy DEC (BRSI) CWAB (BDPA Interpreter Needed\_ Form HA 501a 16-091

BEST COPY AVAILABLE

CLAIM FILE

C1 00055 NA 74 TO ME TO LOUIS SAID DO PE DE BO: REMARKS 64 7,851 26 4x STATE STATE OF STATE OF STATE OF STATES OF STATES 10/69 4 0 11-12/17 EARNINGS RECORD - PLA DETERMINATION 3 66 310.00 NNCN 0 0,69 705.80 NCNN 0 0 NAM'S O O CCMM 0 0 O O NAWA 0 0 0000 x 46.8504 to 0 0 NNNN 0 0 0000 4647.33 \* 6666 0 1444006 0 41 380.42 NNNG 0 0 70 NNNN 0 0 - 3359.20 1425.01 50 60 50 50 65 21,721.11 NAMEN 0 62 3599-00 CCCC 0 0 71 MANNAN 0 63 2657.40 CCCC 0 0 72 NIA'S 0 0 65 NAMA 0 0 67 99 0 0 NNNN NS 65 GIS EX 1951 1966 8743,28 HONE 66-68 24 NS 658 DIS EX 1951 1969 8743,28 MOME 60-68 24 NS 658 144,00 NS 65 144,00 52 52 Tot 34 4501 10 90 11 40 11 40 15 52 75 334 52 53 Z 2444 -

Ł

REPORT OF CONTACT (USE INK OR TYPEWRITER)	NAME OF WAGE EARNER	Mc & Inith 75
PERSON(S) CONTACTED AND ADDRESS(ES) WE OR SE PERSON	OTHER (Specify)	ACCOUNT NUMBER (and symbol)
CONTACT MADE  DO CS HOME PHONE	OTHER (Specify)	DATE OF CONTACT
suffered while breaking up a stronger hele the was as to	because if a fight between	m historotte + a
the word Through with his wedding	ng plans, about	And her is planning
per pendically - He would in		
allhayh the Dri exect	of Condition	would be too hoyan
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Top physical condition.	Thus & real	question of his ball
pan of Frig Try).		
SIGNATURE CRUETA	GCR PR	CLAIMS CLERICAL ML 2/6;
wh	OTHER (Specify)	PAGE

FORM OAC-5002 (1-65)

U & GOVERNMENT PRINTING OFFICE - 1965 0 - 159-433

## REPORT OF DISABILITY INTERVIEW (WRITE LEGIBLY)

My C- Wash HE 12/01/1

	102-34-4801
WAGE EARNE	
1	nichael McDevill Came
NAME AND A	DORESS OF PERSONISI CONTACTED CLAIMANT
CONTACTMA	DE PLACE OF CONTACT
XIN PERSO	N TELEPHONE TO CS HOME OTHER
INTERVIEWE	R'S SIGNATURE OF INJURY OF ILLNESS THAT PREVENTS EL ASMANDE
2 2	Pison DOTHER Fractured & Line
128,967	July 27,1944 Construction - Stone Letter Construction
	1. Date injury or illness first bothered claimant Quel 28/16 2. Date claimant stopped working Quel 28/16
	3. Describe ability to work at the time the injury of illness first bothered claimant (changes in job duties, cooling)
	tions, etc.); changes in condition since it first appeared until work stopped (changes in symptoms, dates tired noticed, changes in work conditions, work interruptions, dates changes occurred); and reasons claimant scopped
	working (including reasons other than condition). Claimant was emeasons
	for 2-3 days after the fight, in which he obtained
	the shull fruction, occurred. For a day or less forther
	this, claimant was in vait of coma. when
1	the contract of the order of th
	Claimant came to, he was deaf in leftlan id my
ONSET	spiels, blund vision and migraine headaches
OF	There was the same to the same that the
IMPAIR-	The symptoms have presented until this day attended
MENT	there has been some mild inprovement.
(Complete	Claimant has difficulty welking at
this	because of the dryiners which causes him to loose
Section	have the soft and
in 	his equilibrium and fall to left as he would
- ALL	Claimant has actually fallen down on a few
Cases)	
	occussions because of this problem

EXHIBIT 14

	4. Has claimant	worked	since	onset?	(11	"Yes,"	complete	Form	OA-	D821.)	10	tyle
-	Children water and programmed and programmed and the second										N	

CHECK IF ONE OF THE FOLLOWIN	G APPLY (I) one of the items is checked -	- Do Not Complete pages 2, 3, or 4
States his condition no longer prevents him from working	Is hospitalized	Alleges progressive cancer
Is enganing in SGA	Is house confined or unable to leave house unassisted because of a physical impairment	Has lost a leg because of diabete or Buergers disease
Alleges a fracture or burn	Is unable to speak, or to see,	Has lost the use of a leg because of a fractured vertebrae

Describe changes in condition since work stopped, current condition (including the symptoms and the limitations imposed by the impairment that keep him from working now), and limitations placed by his physician (e.g., had recovered special treatment, diet, restricted activity, etc.). Carrent condition is

full laced appoint the segreptomize distributed on frequency page Claiming inducated that

some simplement must has recurred. Degrees special treatment of the segret inducated that

reflex actions on part of claimant of ten course him to love him to talance and sometimes fail.

Claimant takes 4 different medicines daily

one 3 times a day; one hind taken when senses

eapside) taken when medical a fairth adactive (pentical actions) taken when medical a fairth medication laken once or more pendage.

Claimant works on scaffolks and roofs and any doppy y spells would cause accidents for the

PRO-GRESSION AND WRRENT DITION

duimant.

Describe living arrangements and activities in a typical day. Include the amount of assistance the claimant requires in caring for personal needs is a concernt has no difficulty dissisting or a whing self. He is able to use all transportation forms of Claimant stays at home most ofday. Claimant watches TV for day. Claimant makes beds and claims dishes. He does not himselfy shap with wife.

CHECK IF ONE OF THE FOLLOWING APPLIES (II one	of the items is checked - Omit Section III, Proceed to Section IV
	Parkinson's disease with marked tremors or propulsive
	gait
3 months after stroke claimant has weakness of 2 limbs, or severe speech or memory defect with	Multiple sclerosis with staggering gait, marked tremors or visual difficulties
marked loss of use of one limb  Arthritis with gross deformity of 2 or more limbs	Other severe, observable limitations

+	JOB TITLE	Sycars before onser	APPROXIMATE DATES WORKED				
	Ame Little			1963-	april 1967		
1	TYPE OF BUSINESS OR INC	US THY	HRS DAY	DAYS/WEEK	RATE OF PAT		
	1 + -	-	7	1	1217		
	Construct	cac	/		\$ X // PER -		
	B PHYSICAL DEMANDS		a	cooks - nich	dun bullity		
	1. Lifting	XYES NO 1	low much in lbs.?	100.16 alones	How high?		
	2. Carrying		tow much in lbs.' 4	1 (Sellow often)	How fair		
	3. Pushing pulling	YES NO 1	tow much in lbs. >	How often?	Now lat'		
	4 Standing	THES NO 1	tow much time/day?	all day	ing		
	5 Walking	그러워 그 이번 중에 없었다면 하다 아니는 일이 없는데 하면 하면 하면 하면 하게 하게 하는데 하다 하나 다니다.	tow much time 'day'				
	6. Sitting		fow much time/day?				
	7. Climbing	TYES [NO 1	tow high?	How often	)		
	8. Stooping, bending		How often and/or ho				
	and or kneeling	/					
	C JOB DUTIES (Describ	e in specific gras by	claimant's duties in	a (ypical workday)			
	C JOB DUTIES (Describ	time - putte	my cement	in expanse	on joints		
	•	ml	culding .	being con	sticoled		
		dur rettin	- north	un sells in	ludding		
	I window setting - poilting sells in building (claimant with at all levels of building)						
111					0		
	3. pul	ung on pa	repet wal	ils -			
VOCA-							
TIONAL		atiquefing					
TION	Staffelds and	torder wal	hed all day	a He was	oftenon		
	localledo an	itallie rese	cas officelle	line muss.	feet above		
			7,	7			
	ground.						
	D. WORKING CONDITIO	NG VI B AND	blocks - describe it	ems checked)	ngerfage transport for the contract of the con		
					] Dampness   Ciber		
	Claimant	Elements	1 emperature	lon in			
	Claimant	written au	and all in	ag world			
					Advisor and the state of the st		
	E. REQUIRED SKILLS	Describe all "Yes" an	isuers!		When Ellin		
	1. Did job require sp	ecial skills (e.g., blue	print reading, use of	tools or machinery)?	XX3 No		
	2. Training required	NON THE JOB	APPRENTICE	CLASSROOM			
	3. Did job require su	pervising the activities	of others? Describ	e length and type.	X VEZ NO		
	Claimant	neperused	2 helper	on his la	110b-		
		7, 7, 7, 7, 7, 7	1				

	F. OTHER JOBS
	i. Did claimant's last job before onset involve an occupation different from principal job?  It "Yes," describe e.g. physical demands, conscious required skills, job duties  e.g. Do not describe less to less than one morths a serion
111	
VOCA- TIONAL ESCRIP- TION	
Cont'd)	2. List by 10b titles and approximate dates worked, other occupations held in 15 years before onset.  NOTE: If claimant is (a) age 55 or older, and (b) had no more than 6th grade education, and (c) performed only arduous unskilled labor 15 years before onset, list all 10b titles and dates since work began.
	Lana Multileth 1250, 1961-1963 (Printing machine)
	Construction wirker 1963-1967
	A PHYSICAL DESCRIPTION Describe all "Yes" answers)
)	Did claimant display difficulty with any of the following:   Walking
IV	B INTERVIEWER'S IMPRESSIONS
OBSER- VATIONS	I Did claimant display difficulty with any of the following? (If "Yes." des ribe)  Reading YES NO Virting YES NO Comprehending YES NO  Responding YES NO Language YES NO
	Claimant appeared to be well and in good health
	but the disability is not the kind that
	Would show anany outward signiftens
	Mint throng the croses of having actions

(If additional space is needed, use Form OAC-5002)



FFICE	4232 Broadway	2//	169 80
ONTACT	New York, N.Y. 10033	PLACE OF CON	PACT /
IN PE		100	os.
		IT HOME	07459

REPORT OF CONTROL OF C	NTERVIEW	CONTACT MADE  IN PERSON  TELEPHONE	□ HO	
PERSONISI CONTACTED	& Dentt	102-37-480  OTHER (If other, she	cuname, address and relat	
MTERVIEWER'S SIGNATURE  RDS-		A CONTRACTOR OF THE CONTRACTOR	CR YFR	
I. MEDICAL CARE AND TRE	ATMENT			
Has the clai investigation		, treated, or haspitalized in NO /// "Yes," com	nince the last application plete the next (tem.)	n or last continuing disabilit
NA.	ME, ADDRESS, AND I	PHONE OF PHYSICIAN, HOS	PITAL OR CLINIC	DATES WHEN CLAIMANT SEEN
Identify all Belle	new Ho	of MYC		11/67-7/60
amined the	of attle	it ISAE	US STAVIOOD	4 2/49-3/6
the last applica-	BU8	-4440		
disability in- vestigation, whichever is				
later.				
Describe treat-	Drs a	+ Bellener	- told hu	they
the claiment's	nothing	me the	en Could	as ley
physician.	hes y	ndition i	vill unter	m ly
of home confine-	y D	Sottler	heled	wy,
confined Causative condition	dura	-2 fmg	ne for	a fall

	11.	PROGR	ESSION	OF	CONDI	TION
--	-----	-------	--------	----	-------	------

If yes, describe fully all changes in condition (with dates) since last interview.

FORM SSA-454 12-003

Have there been any changes in symptoms, physical limitations, or activities since the last interview?

III. CURRENT CONDITION	81
In 2/69 had a fall a delande dent	Describe in the
tender on fugle and arms falling the	claimant how his
a glass day This jeast frede the thethe	interferes with
beden a monde for Hopest lede	≠   ·
IV. DAILY ACTIVITIES that I work in a month or two	
perde most of the line argued the	Describe only the octivities of a rypicel day that
honst that does that he malks	have changed isince they were last reported.
I we with wife who works Has	• Physical • Mental
while the the conf	e Contact with others
personelle !	Describe assist- ance required in caring for per-
	sanal needs.
	Egual, O
VII. OBSERVATIONS - Are the alleged impairment(s) observable?	
Hearing Yes No Comprehending Yes Use of hands Breathing Yes Sight Yes No and arms Yes No Sitting Yes Reading Yes No Writing Yes No Walking Ye	No or not any diffi- No culty was
Heating Yes No Comprehending Yes Use of hands Breathing Yes Sight Yes No and arms Yes No Sitting Yes Reading Yes No Speaking Yes No Other Yes A	No indicate whether No or not any diffi-
Hearing Yes No Comprehending Yes Viges of hands  Sight Yes No and arms Yes No Sitting Yes No Reading Yes No Speaking Yes No Other	No indicate whether or not any diffi- No culty was observed.
Heating Yes No Comprehending Yes Sight Use of hands  Sight Yes No and arms Yes No Sitting Yes No Writing Yes No Walking Yes No Speaking Yes No Other Yes Markey Other	No indicate whether or not any difficulty was observed.  Describe fully e General appear
Hearing Yes No Comprehending Yes X Use of hands Breathing Yes X Sight Yes No and arms Yes No Sitting Yes X Reading Yes No Writing Yes No Walking Yes X Responding Yes X No Speaking Yes X No Other Yes X Mo Other Yes X	No indicate whether or not any diffi- No culty was observed.  Describe fully e General appearance e Behavior Outward attitude e Circumstances
Hearing Yes No Comprehending Yes X Use of hands Breathing Yes X Sight Yes No and arms Yes No Sitting Yes X Reading Yes No Writing Yes No Walking Yes X Responding Yes Y No Speaking Yes No Other Yes X Markey Yes X Yes	No indicate whether or not any difficulty was observed.  Describe fully o General appearance obshavior outward attitude of Circumstances surrounding the interview of All "Yes"
Hearing Yes No Comprehending Yes X Use of hands Breathing Yes X Sight Yes No and arms Yes No Sitting Yes X Reading Yes No Writing Yes No Walking Yes X Responding Yes X No Speaking Yes X No Other Yes X Mo Other Yes X	No indicate whether or not any difficulty was observed.  Describe fully o General appearance obshavior outward attitude o Circumstances surrounding the interview

(If Additional Space is Needed, Use Form OAC-5002.)

3

_	REPORT OF NEW INFORMATION DISABILITY CASES	Turk Approx Rudger Burra
Chec		TEDERMET
send	in this cord unless there is a ch	
	Change OF ADDRESS Print new Check here if new address will be u	address at hortom) sed for 6 months or less you should also file a
2	DISABLED PERSON'S CONDITION	HAS IMPROVED
3. F	DISABLED PERSON TOOK JOB AS EMPLOYEE ON	JUNE 3 6
•	DISABLED PERSON BECAME SELF-EMPLOYED ON	MONTH DAY AND POAR
5	DISABLED PERSON STOPPED WORK ON	MONTH DAY AND YEAR
6.	DISABLED PERSON LEFT THE HOSPITAL ON	MONTH DAY AND YEAR
	DISABLED PERSON LEFT CUSTODY OF REPRESENTATIVE PAYEE ON	MONTH DAY AND YEAR
8	DISABLED PERSON DIED ON	MONTH DAY AND YEAR
9	DISABLED PERSON GOING OUTSIDE THE U S	DATE GOING
	WE OF	DATE EXPECT TO METU
C	DISABLED PERSON MARRIED	DATE OF MARMINGS
1.	ADOPTED ON	DATE CT SPTION
8,	Stepporent Grandparent  Aunt Uncle Broths	Sister Other
12	DISABLED WORKER UNDER AG 62 IS RECEIVING WORKMEN'S COMPENSATION OR THE AMOUNT OF PRESENT PAY- MENT HAS CHANGED	E SEERLY AMOUNT OF BORN SEN'S COMPENSATION
70	ich Mile	if the
3	Lewyork n	y 1004
CE	113/169	569-679

EXHIBIT 16

Form Approved
Budget Bureau No. 12-R529

(To be used in all cases of investiga	RK ACTIVITY REPORT work after alleged onset and claims involving work activity	ontinuing disability	3/17/6	to present
MICHAEL MC			SOCIAL SECURITY NO	34-480
Stone Setter	NAME AND ADDRES		MAGES (INCLUDING	IPS PAYMENTS IN KIND
TATE OF EMPLOYMENT	Sparks Inc	+-		L PER WK
1 10 6/3 67 10 present	New York Building Contr		7	35
DATE OF SELF EMPLOYMENT	TYPE OF TRADE BUSINESS FARM	м	AVERAGE HOURS	AVERAGE HOURS
		SOLE OWNER PARTNER		
ONTHLY EAPNINGS ROSS ET	HOW EARNINGS COMPUTED		NO OF PERSONS EM	PLOYED
F TRADE OF BUSINESS		PARI		
ALUE OF INVESTORY	ACRES CULTIVATED	TYPE OF CROPS	TYPE AND SIZE	OF FLOCES HENDS

Corking stone in construction of building Pulling cement in expansion joints and water proofing,

EXHIBIT 17

4 DESCRIBE SPECIAL SAILLS TRAINING KNOWLEDGE REQUIRED, ANY MENTAL OR PHYSICAL DEMANDS ..

Claiment worked and received on the sole training

. 63

(173)

DESCRIBE EFFECTS OF IMPAIRMENT DE QUALITY OF WORK PRODUCTIVITY, LOSS OF TIME FROM WORK (GIVE DATES), ANY SUBSTANTIAL CHANGES IN DUTIES OR EARNINGS, WITH BEASON, EXTENT, DATES

work usually segures work on seaffolds. The clamant karely works on scaffords now. He loss about two days work since 6/3/69.

DESCRIBE ANY SPECIAL CONDITIONS ARRANGED BY EMPLOYER ASSISTANCE REST PERIODS, IRREGULAR HOURS EMPLOYED ON TRIAL BASIS ETC.
PRACTICE OF EMPLOYER IN REGARD TO EMPLOYING HANDICAPPED UNDER SPECIAL COMBITIONS, IF SHELTERED CONDITIONS ALLEGED CORROBORATION
IS NEEDED.

The special sest periods or special condition. The your foreman knows about the claimants condition but his employer doesn't know. The foreman lets the harmont work on the ground must of the terme

IF ASSISTANCE MECEIVED GIVE

A RELATIONSHIP OF ASSISTANT(S)

B HOURS PER DAY WORKED BY ASSISTANT(S) DAYS PER WEEK \_\_\_\_\_

C. DUTIES OF ASSISTANT(S) INCLUDING EXTENT OF RESPONSIBILITY FOR DUANTITY AND QUALITY OF WORK AND FOR SUPERVISION OF ALL SERVICES

DESCRIBE SUPERVISORY RESPONSIBILITIES IF EMPLOYED NO AND TYPE OF EMPLOYEES SUPERVISED
DESCRIBE RESPONSIBILITIES FOR MANAGEMENT DECISIONS IF SE. HIRING, PURCHASE OF MERCHANDISE LIVESTOCK, EQUIPMENT, EXPANSION OR
REDUCTION OF ENTERPRISE, ETC.

none

1 8	BERYSCES RECEIVED FROM ANY MEMABILITATION AGENCY. GIVE				
	NAME ADDRESS OF AGENCY			-	
	DATE(8) BERVICES RECEIVED				
c	DESCRIPTION OF SERVICES RECEIVED. MEDICAL EXAMINATION O				7
	MEDICAL EXAMINATION	THEATMENT, COUN	SELING, TRAIBING,	PLACEMENT, ETC.	
WX	AT WAS RATE OF PAY FOR OTHERS DOING THE SAME WORK FOR S.	AME EMPLOYER"			
*0	R OTHER EMPLOYERS IN THE AREA"	P ER		'SUBBIDY" ALLEGED.	CORROSORATION IS
ME	EDED				
15	WORK (OR SE) HAS ENDED, GIVE REASON INCLUDE INFORMATION	ON CONTINUANCE OF	EMPLO"MENT REL	ATIONSHIEP (13 JOS 81	ING MELD OPEN IS
81	CK LEAVE BEING GRANTED, ETC.), IF EMPLOYED, ON CONTINUANCE	TO SHARE IN PROFIT			
но	W WAS JOS OSTAINED: THROUGH PRIEND RELATIVE, NEWSPAPER	AD, EMPLOYER IS RE	LATIVE, FRIEND, E	7¢.	
	Union				
	Umon				
	Union				
	Umon				
• (	MARKE				
• (	MARKE	2 0	/ <i>+</i>		
*(	The Clarmant Leek	es he l	hao to	work	
• 6	The Clarmant Leek	es he i	has to	work	S W.S
	The Clarmant Leek	S he i	heo to He is	work	if the
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• •	MARKE	s he l	heo to	work	if the
• (	The Clarmant Leek	en viso	heo to He is	work	if the
• •	The Clarmant Leek	She l	heo to He is	work	if that
	The Clarmant Leek	She l	heo to He is	work	if the
• (	The Clarmant Leek	She lity	heo to	work	if the
***	The Clarmant Leek	She l	Leo to He is	work	if the
**	The Clarmant Leek	She l	He is	work	if the
**	The Clarmant Leek	en iso	Leo to He is	work	if the
• (	The Clarmant Leek	en viso	heo to	work	if the
	The Clarmant Leek	en viso	he to	work	if the
	The claimant feel dispute his disabite had deals of our	She i	heo to	work	- Saice
PE SWAT	The claimant feel dispute his disabite had deals of our	eity en 1950	He s	work	Sare /
	The claimant feel dispute his disabite had deals of our	eity en 1950	He is	work	2/9/6



6	REPORT OF CONTINUING	with 130	1/9	167
	(Write Legibly)	IN PERSON	X DO	- 86
		TELEPHONE	HOME	OTHER
MI Cha PERSONISI CO		COUNT NUMBER  102 - 34 - 4801 CLAIN  COTHER (If other, show name,		
- 9	LATigheo		R DER	
I. MEDICAL	CARE AND THEATMENY			
	investigation? YES		next item.)	intinuing disabili
	NAME, ADDRESS, AND	PHONE OF PHYSICIAN, HOSPITAL O		AIMANT SEEN
Identify all	have Seen only	by specialis	t	
treated or ex amined the claimant since	Dr Fra	nk Boschanste		1/14/69
the last appl tion or centir	nuina 710 W	1685+		
disability in- vestigation, whichever is later.	NY	NY		
Describe tree ment and lim tions placed the claimant	The claima by daily	It takes pain	Kelling ,	pills
physician.  Describe per of home confiment	iods and digging	spello.		
e Dates confined e Causative condition				

#### II PROGRESSION OF CONDITION

Have there been any changes in symptoms, physical limitations, or activities since K HO

If yes, describe fully all changes in condition (with dates) since last interview.

easy an (If Additional Space is Needed, Use Form OAC 5000, Bxh101t Rf

			87
			Describe in the
			claiment how his
			condition currentl
			his ability to
			work.
. DAILY ACTIVITIES			Describe only the
			activities of a
			have changed since they were
	·		last reported.
			Physical     Mental
			e Contact with
			Describe assist-
			ance required in caring for per-
	en de claude production de la company de		sonal needs.
OCATIONAL REHABILITATION - Is the beneficiary In Vocational Rehabil	"Yes", complete an OA-D821 for eing considered for or receivir	each job)  ng services from or the	arough the State
OCATIONAL REHABILITATION - Is the beneficiary Invocational Rehabil	"Yes", complete an OA-D821 for seing considered for or receivire totion Agency?	each job)  ng services from or the	arough the State
OCATIONAL REHABILITATION - Is the beneficiary In Vocational Rehability In Vocational Rehability In Ves No (1)	"Yes", complete an OA-D821 for seing considered for or receivir totion Agency? "Yes," record (1) the name and cice, (2) the type of services being	each job)  ng services from or the address of the communication received.)	arough the State
OCATIONAL REHABILITATION - Is the beneficiary in Vocational Rehability in Vocational Rehability in Ves No (I) of Office and Office in Ves No (I) of the Vesting Yes	reyes**, complete an OA-D821 for seing considered for or receivir station Agency?  "Yes," record (1) the name and a sice, (2) the type of services being readle?  YES XNO Comprehending	each job)  ng services from or the address of the communication received.)	raugh the State rand servicing
OCATIONAL REHABILITATION - Is the beneficiory in Vocational Rehability of Vocational Rehability of Vocational Rehability of Vocational Rehability of Vesting Yes Use of hands	reves**, complete an OA-D821 for seing considered for or receivir totion Agency? "Yes," record (1) the name and a ice, (2) the type of services being rvable?  YES NO Comprehending Breathing	each job)  ng services from or the address of the counselor received.)  Yes No	Check each iten to the left to indicate whethe
OCATIONAL REHABILITATION - Is the beneficiory of Vocational Rehability of Vocational Rehability of Vocational Rehability of Vocational Rehability of Vesting West of Hearing West of Section of Vestight Yest No and arms Yest	revese, complete an OA-D821 for seing considered for or receiving totion Agency?  "Yes," record (1) the name and a lice, (2) the type of services being reached?  YES NO Comprehending Breathing  V No Sitting	yes No	Check each iten to the left to indicate whether or not any diffi-
OCATIONAL REHABILITATION - Is the beneficiory of Vocational Rehability of Vestor of No. (I. of Ves	ryes", complete an OA-D821 for seing considered for or receivir itorion Agency? "Yes," record (1) the name and a lice, (2) the type of services being  rvable?  YES  NO  Comprehending  Breathing  V No  Sitting  No  Walking	yes No	Check each iter to the left to indicate whether or not any diffi-
OCATIONAL REHABILITATION - Is the beneficiory of Vocational Rehability of Vocational Rehability of Vocational Rehability of Vocational Rehability of Vestor of No (II)  Hearing Yes Use of hands Use of hands and arms Yes eading Yes No writing Yes esponding Yes No Speaking Yes	ryes", complete an OA-D821 for seing considered for or receivir itorion Agency? "Yes," record (1) the name and a ice, (2) the type of services being  ryable?  YES  NO  Comprehending  Breathing  No  Sitting  No  Walking	yes No	Check each iten to the left to indicate whether culty was
OCATIONAL REHABILITATION - Is the beneficiory of Vocational Rehability of Vocational Rehability of Vocational Rehability of Vocational Rehability of Vesting Yes Use of hands use of hands with the Vesting Yes of Vocational Yes of No Writing Yes of No Speaking Yes of No Speaking Yes vesting Yes of No Speaking Yes vesting Yes vesti	ryes", complete an OA-D821 for seing considered for or receivir itorion Agency? "Yes," record (1) the name and a lice, (2) the type of services being  rvable?  YES  NO  Comprehending  Breathing  V No  Sitting  No  Walking	yes No	Check each iter to the left to indicate whether culty was
OCATIONAL REHABILITATION - Is the beneficiory of Vocational Rehability of Vocational Rehability of Vocational Rehability of Vocational Rehability of Vestor of No (II)  Hearing Yes Use of hands Use of hands and arms Yes eading Yes No writing Yes esponding Yes No Speaking Yes	ryes", complete an OA-D821 for seing considered for or receivir itorion Agency? "Yes," record (1) the name and a lice, (2) the type of services being  rvable?  YES  NO  Comprehending  Breathing  V No  Sitting  No  Walking	yes No	Check each iten to the left to indicate whethe or not any difficulty was observed.
OCATIONAL REHABILITATION - Is the beneficiory of Vocational Rehability of Vocational Rehability of Vocational Rehability of Vocational Rehability of Vestor of No. (I. of Vestor	ryes", complete an OA-D821 for seing considered for or receivir itorion Agency? "Yes," record (1) the name and a lice, (2) the type of services being  rvable?  YES  NO  Comprehending  Breathing  V No  Sitting  No  Walking	yes No	Check each itento the left to indicate whether or not any difficulty was observed.  Describe fully escened appearance e Behavior
COCATIONAL REHABILITATION - Is the beneficiory of Vocational Rehability of Vocational Rehability of Vocational Rehability of Vestor of Vocational Rehability of Vestor	ryes", complete an OA-D821 for seing considered for or receivir itorion Agency? "Yes," record (1) the name and a lice, (2) the type of services being  rvable?  YES  NO  Comprehending  Breathing  V No  Sitting  No  Walking	yes No	Check each iter to the left to indicate whether or not any difficulty was observed.  Describe fully e General appeance
COCATIONAL REHABILITATION - Is the beneficiory of Vocational Rehability of Vocational Rehability of Vestional Rehability of Vestional Rehability of Vestional Rehability of Vestional Relational President of Vestional President Office of Vestional President Office of Vestional President Office of No. Speaking Vestional President Office of No. In the International President Office of No. In the In	ryes", complete an OA-D821 for seing considered for or receivir itation Agency? "Yes," record (1) the name and a lice, (2) the type of services being  The comprehending Breathing No Sitting No Walking No Other	yes No	Check each iter to the left to indicate whethe or not any diffi- culty was observed.  Describe fully e General appe ance e Behavior Outward attitude e Circumstance
COCATIONAL REHABILITATION - Is the beneficiory of Vocational Rehability of Vocational Rehability of Vestional Rehability of Vestional Rehability of Vestional Rehability of Vestional Relational President of Vestional President Office of Vestional President Office of Vestional President Office of No. Speaking Vestional President Office of No. In the International President Office of No. In the In	ryes", complete an OA-D821 for seing considered for or receivir itorion Agency? "Yes," record (1) the name and a lice, (2) the type of services being  rvable?  YES  NO  Comprehending  Breathing  V No  Sitting  No  Walking	yes No	Check each itento the left to indicate whether or not any difficulty was observed.  Describe fully esceneral appeance e Behavior e Outward attitude e Circumstance surrounding tinterview
VOCATIONAL REHABILITATION — Is the beneficiary in Vocational Rehabil Vocational Rehabil Ves No (I) of (I) o	ryes", complete an OA-D821 for seing considered for or receivir itation Agency? "Yes," record (1) the name and a lice, (2) the type of services being  The comprehending Breathing No Sitting No Walking No Other	yes No	Check each item to the left to indicate whether or not any difficulty was observed.  Describe fully e General appearance  Behavior  Outward attitude  Circumstance surrounding the

REPORT OF NEW INFORMATION DISABILITY CASES	Budger Burea
MAKE OF DISABLED PERSON ABOUT WHO  MIKE Me L  SOCIAL SECURITY CLAIM NUMBER  102-34-4	SVITT YROL HA
Check or fill in ONLY the charge be	ing reported. Please do no
send in this card unless there is a ch	nange to be reported.
1. CHANGE OF ADDRESS (Print new	address of bottom)
Check here if new address will be up more than 6 months	osed for: 6 months or less
To avoid delay in receipt of checks	you should also file a
regular change of address notice wi	th your local post office.
2. DISABLED PERSON'S CONDITION SIGNIFICANTLY	HAS IMPROVED
3. DISABLED PERSON TOOK JOB	MONTH DAY AND YEAR
AS EMPLOYEE ON	- 06/03/60
4. DISABLED PERSON BECAME	MONTH DAY AND YEAR
SELF-EMPLOYED ON	
	MONTH, DAY AND YEAR
5. DISABLED PERSON STOPPED	15/99/10
FORK CA	- 09/0/e//6 4
6. DISABLED PERSON LEFT THE HOSPITAL ON	MONTH DAY AND YEAR
PAYEE ON Disabled persons present address:	<b>-</b>
8. DISABLED PERSON DIED ON -	MONTH DAY AND TEAR
9. DISABLED PERSON GOING OUTSIDE THE U.S.	DATE GOING
NAME OF COUNTRY	DATE EXPECT TO RETUR
DISABLED PERSON MARRIED	DATE OF MARRIAGE
1. DISABLED CHILD WAS	DATE OF ADOPTION
ADOPTED ON	
BY: Stepparent Grandparent	L
Aunt Uncle Brothe	transfer control of
12. DISABLED WURKER UNDER AGE	WEEKLY AMOUNT OF FORK-
62 IS RECEIVING WORKMEN'S COMPENSATION OR THE	
AMOUNT OF PRESENT PAY.	\$
MENT HAS CHANGED	
SIGNATURE OF PERSON BAKING THIS BED	DRT LA
HUMBER AND STREET PY BOX ON BURAL	A CONTRACTOR OF THE PARTY OF TH
36 Sec bles	tt. #A
M. 7 1 125	ZIP CODE
/ULL / BU PE . / ) 7	
	1004
OZZ decilo	- 2700

EXHIBIT 19

d	-CONTINUAT	1010 -
3	REPORT OF NEW INFORMATION IN DISABILITY CASES	No. 12-R0593
A	NAME OF DISABLED PERSON ABOUT WHOM R	SVITT
	SOCIAL SECURITY CLAIM NUMBER	140
	Check or fill in ONLY the change being	reported. Please do not
	send in this card unless there is a chan  CHANGE OF ADDRESS (Print new add	ge to be reported.
	Check here if new address will be use	d for: manths or less
	To avoid delay in receipt of checks your regular change of address notice with	u should also file a
	2. DISABLED PERSON'S CONDITION N	IAS IMPROVED
	3. DISABLED PERSON TOOK JOB AS EMPLOYEE ON	WONTH DAY AND YAR
	4. DISABLED PERSON BECAME SELF-EMPLOYED ON	MONTH, DAY AND YEAR
	S. DISAGLED PERSON STOPPED	01/20/0
	6. DISABLED PERSON LEFT THE HOSPITAL ON	MONTH, DÂY AND YEAR
	7. DISABLED PERSON LEFT CUSTODY OF REPRESENTATIVE PAYEE ON	MONTH, DAY AND YEAR
	Disabled persons present address:	
	8. DISABLED PERSON DIED ON	MONTH DAY AND YEAR
	9. DISABLED PERSON GOING	DATE GOING
	OUTSIDE THE U.S.	DATE EXPECT TO RETURN
	10. DISABLED PERSON MARRIED	DATE OF MARMAGE
	ON DISABLED CHILD WAS	DATE OF ADOPTION
	BY Stepparent Grandparent	
	12. DISABLED WORKER UNDER AG	
	12. DISABLED WORKER UNDER AGE 62 IS RECEIVING WORKMEN'S COMFENSATION OR THE	BUE M'S COMPENSATION
	AMOUNT OF PRESENT PAY- MENT HAS CHANGED	
\	SIGNATURE OF PERSON MAKING THIS REP	7) *
,	NUMBER AND STREET, DO BOX OR RUN	POUTE #10
	36 Sickles	17. 200E
	1(en) (cife 1)7	100TO
	1700	ICH YOU LIVE

---- SSA-612 ---



# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE SOCIAL SECURITY ADMINISTRATION BALTIMORE, MARYLAND 21241

BUREAU OF DISABILITY INSURANCE

REFER TO NICELL 102-34-4801 HA

Date April 23, 1971

Mr Michael J McDevitt 36 Sickles St New York NY 10040

To help us determine whether you are still entitled to disability benefits, we need information about your work from January 20, 1970 to the present time.

Please answer the questions on the next two pages, sign your name at the bottom, and return the form within 10 days in the enclosed envelope which requires no postage. If you have questions or need help in filling out the questionnaire, please telephone or visit any social security office. You can find the address in the telephone directory under "Social Security Administration," or ask at your local post office. If you visit the social security office, take this with you.

If more information is needed after you return the questionnaire, someone from your social security office or the State agency which works with us in making disability determinations may get in touch with you later.

Sincerely yours,

leHall

C. C. Hall, Assistant Dir tor

EXHIBIT 20

(24)

38A- 821(0) (5-70)

#### 91

#### REPORT OF WORK ACTIVITY-CONTINUING DISABILITY

INSTRUCTIONS FOR COMPLETING THE FORM

Answer each question as fully as possible.

If any question does not apply to you, write "none" in the space provided.

If the earnings reported are not payment for work, (for example, sick pay or vacation pay) explain in remarks.

If you need more space to answer a question, use the back of this form or a separate sheet of paper. If you use a separate sheet of paper, please be sure to put your social security claim number on it.

1. WHERE HAVF YOU WORKED SINCE THE DATE SHOWN IN THE FIRST PARAGRAPH OF THE ATTACHED LETTER	WRITE THE NAME, ADDRESS, AND PHONE NUMB ATLAS TILE + MARCHE WICKS, IN A CITAVING CORP 80-60 PIT LINGLA STONE ERECTIRS - PREFABRICATED CONCRETE INC DOMESTIC STONE ERECTORS - 41,	KIN AVE. OZONE PARK, NY 17 Nawycek City ( don't know exact Add. 220 old Counter Rd Minicla, NT.
2. DESCRIBE THE WORK	TONE SEITER	IN THE Building
	JUSE RULLER AND A	LEVEL IN THIS TYPE
3. DATES WORKED	MARCHIS, 1970	STANTED WORK AZMIN  APRIL 22,  WORKING AT PRESENT MOMEN!
	IF YOU ARE NOT WORKING NOW, WHY DID YOU	\$ TOP?
4. HOURS WORKED	AVERAGE HOURS PER DAY	J5

5. AMOUNT EARNED	a. Average Earning	s (Total Earnings B	efore Payroll Deductions)	92
	Per Hour \$ 7	26 P	er Week \$ 150	JL
		d work, have there beductions, were \$50	een any months in which your total e or less?	earnings,
	No give the reason		If yes, list each month and	
	GOT HO	IRT on Jek	due to dizzini	ESI
			CONSISTING OF	
			ECTRICITY.	
	ACCIDENT	HAPPEN ON	ECUAY 19, 1971 WE	NT
	BACK TO	werk AK	RIL 22, 1871.	
	50	MARCH Y	FARN LESS THAN \$50,-	Cover
6. MEDICAL CONDITION	a. Describe anythi	ng you are unable to example, lifting, ber	do at work because of your medical ding, pushing.	
	NgoT to	LE EXTREM	ely CAREFALL, WHE	n'
	& LIFT on	bend or pu	SH FORY CAN EAS	4
	GET d			
	b. Did your doctor	place any restrictio	ns on your work?	
	No	Yes	. If yes, what are they?	
	1, STAY	AWAY FRE	M HEIGHT	
			CERT MY SELF.	
7. REMARKS	\$ SAY M	Y HUERAL	E EARNINGS MY	1A Y
	BE \$150-	BE CAUS	E ALOT OF WEEN	5,-
			WORK, FOR & don	
	FEEL WE	ell lue ;	omy condition.	
I certify that the above sto of a material fact for use if able under Federal law.	atements are true. I k in determining a right	now that anyone wh to payment under th	o makes afalse statement or represe Bocial Security Act commits a crim	ntation ie punish-
SIGN YOUR NAME AS YOU USU	ALLY WRITE IT	DATE	PHONE NUMBER	
milal mas	,	1 / /	569-6790	

POR THERE ARE FORMAN, IN THIS DOWNESS, 93

WHO ARE AWARE OF MY CONDITION, WHO ARE MIND

ENCLOHE TO QUE ME VERY LICHT WORK

my medical hadycope in: SEVERE HEADARES

Equalibrium

01221NESS

DLURNESS OF VISSION

there symtoms occur sometime consistantly and other time periodically.

Doctor tell me the will gradually heal but there is no at time limit.

and not to warry about it.

quenation 6 Parts.

was out of work July 20 to 12 of august 1970 due to my condition.

but don't ummber states.

1.5 Long for delay pertaining to supernee, application was mighted



## REFUND QUESTIONNAIRE

To be completed by individual wno alleges inability to repay debt due the Social Security Administration

SOCIAL SECURITY CLAIM NUMBER

NOTICE: - Whoever makes or causes to be made any faise statement or representation of a

	under the Social Security Act is subject to	not more than	a \$1,000 fine or 1 year of
Muhael	J. Mc Lwitt		
1. Do you have any of the inco	rrectly paid benefit checks in your possess		TYes TANO
If "Yes," show the total an		sion?	i res UNo
THESE CHEC	CKS MUST BE RETURNED IMMEDIATELY		
2. List your total monthly incom	me (including any income of your spouse or the household with you), from:		
Social Security benefits			· none
Wages (take-home pay)	(average)	)	: 450.00
Average net earnings from se	elf-employment		: Mone
Roomers or boarders			\$ "
Service allotments (Army, Na Veterans Administration p			
Public assistance payments.			. 8 //
Contributions from relatives dependent relatives whose	(other than e income is included under wages)		.\$ "
Other, such as rentals, divid	ends, pension payments, etc. Explain		
		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	
	TOTAL		1450.00
3. Do you support, either fully o	or in part, anyone other than yourself?		Yes No
It "Yes" list the name, add	ress, age and relationship of each person u	ibom you supp	EXHIBIT 21
NAME	ADDRESS	AGE	RELATIONSHIP TO YOU (If none, enter "None.")
Linda Me Du	itt 36 Sukles ST. 2	yc 29	Wije
(Expect for	in of furt chied	in ma	4 72)
		0	

\$

\$

\$

\$

\$

6. (a) Not counting	urnishing or family automobile, do you, your spanse,		96
or any dependent relat	ive living in the household with you have any personal	_	
	on hand, funds in bank, stocks, bonds, etc.?	Yes	PNO
If "Yes," answer (b).			
(b) Give the amount of the	rse funds		
Cash on hand			
Amount of funds in ba	nk, savings and loan association and credit union		
Name and address	of your savings institution:		
Value of stocks and b Name the stocks ar		. \$	
Value of other persona	of property and other funds (trust funds, etc.)		
Explain:			
	TOTAL		
7. (a) Not counting the home relative living in the 11 "Yes." answer (b)	in which you live, do you, your spouse, or any dependent household with you own any real estate? and $(c)$	Yes	PNo
7. (a) Not counting the home relative living in the 11 "Yes." answer (b)	in which you live, do you, your spouse, or any dependen household with you own any real estate?		[P] No
7. (a) Not counting the home relative living in the ly "Yes." answer (b)	in which you live, do you, your spouse, or any dependent household with you own any real estate? and (c) he real estate (DO NOT INCLUDE YOUR HOME)	Yes	[P] No
7. (a) Not counting the home relative living in the 11 "Yes." answer (b) (b) What is the value of t	in which you live, do you, your spouse, or any dependent household with you own any real estate? and (c) he real estate (DO NOT INCLUDE YOUR HOME)	Yes	₽ No
7. (a) Not counting the home relative living in the II "Yes." answer (b) (b) What is the value of to (c) If mortgaged, state and I. Are all or any part of the or property listed in item	in which you live, do you, your spouse, or any dependent household with you own any real estate?  and (c) he real estate (DO NOT INCLUDE YOUR HOME)  nount of the mortgage  incorrectly paid benefit amounts included in the funds s 6 and 7?	Yes	[P] No
7. (a) Not counting the home relative living in the II "Yes." answer (b) (b) What is the value of to (c) If mortgaged, state and I. Are all or any part of the or property listed in item	in which you live, do you, your spouse, or any dependent household with you own any real estate?  and (c) he real estate (DO NOT INCLUDE YOUR HOME)  count of the mortgage  incorrectly paid benefit amounts included in the funds	Yes \$	□ No
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7. (a) Not counting the home relative living in the If "Yes." answer (b) (b) What is the value of t (c) If mortgaged, state and I. "Are all or any part of the or property listed in item If "Yes," show the amount	in which you live, do you, your spouse, or any dependent household with you own any real estate?  and (c) he real estate (DO NOT INCLUDE YOUR HOME)  count of the mortgage  incorrectly paid benefit amounts included in the funds in and describe the nature of such funds or property.	Yes Yes Yes	
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7. (a) Not counting the home relative living in the 11 "Yes." answer (b) (b) What is the value of t (c) If mortgaged, state and 1. "Are all or any part of the or property listed in item If "Yes," show the amount of the child's name and 1. Give the child's name and 1. Were the incorrectly paid	in which you live, do you, your spouse, or any dependent household with you own any real estate?  and (c) he real estate (DO NOT INCLUDE YOUR HOME)  count of the mortgage  incorrectly paid benefit amounts included in the funds in a found of the nature of such funds or property.  WERPAID BENEFICIARY, THE FOLLOWING QUESTION of present address	Yes  Yes  Yes  S SHOULD BE A	

Does the child have any			0'
(a) Income (including social security benefits)		Yes	-D · 9
If "Yes," show monthly amount		\$	
(b) Monthly expenses?		Yes	□ No
If "Yes, ' show monthly amount		\$	p. 10
(c) Personal property such as cash in bank, stocks.  (Include funds held jointly)	trust funds, bonds, etc.?	Yes	□ No
If "Yes," how much and what kind? (List each it furnishings or family automobile)	em separately. Do not show	the value of the	household
		Nes	∏ No
(d) Real estate other than his home?		Lucian	U
	and the amount of any mortg		PRO THE REST OF THE PROPERTY O
2. Are all or any part of the incorrectly paid benefit am	ounts included in the fund or	Yes	$\Box_{\Sigma_0}$
property listed in 11(c) or (d)?  11 "Yes" show the amount and describe the nature.	of such funds or property		<u> </u>
(a) Is child married?  If "Yes" amswer b) and (c)	4	Yes	□ No
(b) What is the spouse's monthly income?		5	
(c) What are their monthly expenses?		\$	
ENARYS			
knowing that anyone making a false statement or represonance under the Social Security Act commits a crime statements are true.	punishable under Federal lav	w. I certify that t	the above
f this questionnaire has been signed by mark (X), two witnesses who know the signer must sign below, giving their full addresses.	SIGNATURE OF OVERPAID PE	RSON OR REPRESE	NTATIVE
HANE TO THE	SIGN A	(man)	` M
	HERE IN	1/1/1/	. //
DORESS Number and Sur 97 pury, State, and ZIF Code	MAILING ADDRESS (Number and	Street, P.O. Box.	or Rural Resident
Distaics -	Muchan	St	FRUIT ROUGE
ADDRESS Number and Street, City State, and Zip Code)	MAILING ADDRESS (Number and	St	FRUTAL R. ute
NAME DISTRICT OFFICE &	MAILING ADDRESS (Number and 36 Suchles CITY, STATE, ZIP CODE There york	St	NUMPER

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SEPARTMENT OF HEALTH EDUCATION AND RELFARE



#### "WITHOUT FAULT" QUESTIONNAIRE

102-34-4801 NA

Michael & Midwite

NOTICE - Whoever makes or causes to be made any false statement or representation of a material fact for use in determining a right to payment under the Social Security Act is subject to not more than a \$1,000 fine or 1 year of imprisonment, or both.

NAME OF OVERPAID PERSON(S)

1. Give the reasons you thought you were entitled to this payment
Twas steel under La's Care & Twas not
day to be laid off breause I was not
day to be laid off breause I was not
able to do a fill days work
2(a) How did you report events which require holding back of stopping your payments?
I did not report back in Mar 1970
Maure I elther did not think I was
gang to work a whole month, or else I
gang to work a whole month, or else I Simply forgot browner I do have mimory laps
(b) If you tried to hold your earnings down so that you could receive benefit payments, what did you do to limit your earnings?

EXHIBIT 22

	LAIMAL
3. When did a social security employee first explain t	to you the conditions under which you could receive benefits?
Torotalle un Tild to se	port when I fast applied
Out due to my head is	your I frest much of
If this statement has been signed by mari X), two witnesses who know the person making the statement next sign below, giving the full addresses.	SIGN ATTHE OF OVERPAID PERSON OR REPRESENTATIVE
1. NAME	HERE Michael Moleur
ACORES (Number and 1808) 13 Sate and Zip Code)	36 Sichles ST
2. NAME	The Month Ady, and year) TERPHONE NUMBER
SSA DISTRICT OFFICE	2/22/72 569 6790
FORM SSA-634 (7:66)	

1. Give your observations as to the "without-fault" allegation This beneficiary works in the construction industry and is never sure whether he will or will not get a days work. This could account for his failure to report his work in mar 1970. Put no inference can be made from this if work was Properly reported for an Earlier work period It mishformations alleged, what do your records show and what is your recollection in the matter? no record in Z. . Has the beneficiary now been given a proper explanation of the retirement test? Enjectury altribules facture to comply whith the law to lapses of memory due to head in ferrez. Amay be there in part; lat it als appears he was in prancial different The period un der consideration & needed The bestefets + feest egnored suporting uguir mont

Form approved. Budget Bureau No. 72-R0442



# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE SOCIAL SECURITY ADMINISTRATION

### STATEMENT OF CLAIMANT OR OTHER PERSON

MICHAEL J. MEDEVIT	102-34-480/HA
NAME OF PERSON MAKING STATEMENT (If other than above wage earner or self-employed person)	RELATIONSHIP TO WAGE EARNER OR SELF- EMPLOYED PERSON

NOTICE.—Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act is subject to not more than a \$1,000 fine or 1 year of imprisonment, or both.

Understanding that this statement is for the use of the Social Security Administration, I hereby certify that—

unable to

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Accepting Militable	to which Swanntilles
to and seems have	the money to repay
Knowing that anyone making a false statement or represent	ration of a material fact for use in determining a right to
payment under the Social Security Act commits a crime pur	ichable under Caderal law I cortify that the above state-
ments are true.	SIGNATURE OF PERSON MAKING STATEMENT
If this statement has been signed by mark (X), two witnesses who know the person making this statement must sign below, giving their full addresses.	
1. Signature	Mailing Address (Number and Street, Apr. No., P.O. Box or Rural
Address (Number and Street, City, State, and ZIP Code)	30 Sickles St.
2. Signature	City State 2IP Code
Address (Number and Street, City, State, and ZIP Code)	Date (Mo., Day, and Year) Telephody No. (If some swallable, write, No. of No.
Address   Tumber and Street, Otty, State, and Ell Court	write/"Napo")

exert :



#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE SOCIAL SECURITY ADMINISTRATION

OR OTHER PERSON
SOCIAL SECURITY NUMBER
RELATIONSHIP TO WAGE EARNER OR SELF. EMPLOYED PERSON
ent or representation of a material fact in an Social Security Act is subject to not more than
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**10**3 I know that anyone making a false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal law. I affirm that the above statements are true. SIGNATURE OF PERSON MAKING STATEMENT Date (Month, day, year) Signature (First name, middle initial, last name) (Write in ink) Telephone Number SIGN HERE Mailing Address (Number and street, Apt. No., P.O. Box, Rural Route) Enter Name of County (if any) in which you now live ZIP Code City and State Witnesses are required ONLY if this statement has been signed by mark (X) above. If signed by mark (X), two witnesses to the signing who know the individual must sign below, giving their full addresses. 2. Signature of Witness 1. Signature of Witness Address (Number and street, City, State, and ZIP Code) Address (Number and street, City, State, and ZIP Code)

# BFST COPY OBTAINABLE Chart No. 104 MOSPITAL 04-22-13

THE CITY OF NEW YORK DEPARTMENT OF HOSPITALS

#### **ADMISSION RECORD**

Surname First Middle MCWEU, # Middle	SAR	J83	Date of Birth	Date Admitted	Ward or Clinic
Permanent Address	Nativi	ty	Color W N.	Other (Specify)	
Occupation	Dates of	f Previo	is In-Patient A		
FOR IN-PAT On discharge record the following data Date discharged 5 4 Condition: Impro	a; Use Ter	ms and	Codes of Stand	ard Nomenclatur	
Final diagnosis: Main Condition would Co			T	de No	MA DIMI
Additional Conditions Trans	byu th	7 4×	Trapped ( 1	le No	
1th. I deve	Ham			te No (x	riak
In the following report include: FAMILY HISTORY.					
Previous History: habits, occupation, childhed Present Condition: Date and mode of onse					
For trauma, include case				w of systems.	
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Date 4/29/67 Signa	ture	F	Elis. 1.	I- Longing	e

BELLEVUE HOSPITAL BIGORIUM

McDevitt, Michael M R6 BD 7/27/44

Adm. 9/89/89 M. mth. 8/83/69

CC: Headache.

PRESENT ILLHESS: The patient was admixted 4/29/67 for 6 days following head trauma, after being struck in the it parietal occipital area. Patientlost consciousness for about one day and states that he had a fractured skull. After 6 days in the population is the beautient of the period out AMA. Since leaving the bosnital he had been unable to work because of a symptomic particles associated with falling to the it. Frequency admining is effect more than one time per day but sometimes loss than its per week. There was no history of entering the recent loss of consciousness. By eight has occasionable to recent loss of patient has noted high pitched notes to the it. car. There was no discharge. Be thinks that there is decreased auditory active in the lt. car. He has had bifrontal beautiful and it. parietal headaches varying in frequency from less than one time per week to 4-5 per day. Headache lasts from 5 mas. to 1 kr. and are usually very painful. Headaches are relieved by Darvon.

PAST HISTORY: Patient had duodenal ulear in 1962 which has rebonded well to medical therapy over the years. There was one

R-Vies OF STRIES: Hon-contributory.

PAMILY HISTURY: Non-contributory.

PHYSICAL EXAM: BF 120/90, pulse 88, respirations 16. The patient is alert and coop-rative. In acute pain with hand over his head. Rt. pupil is 1 mm. greater than the it. pupil. There is mystagms on rt. lateral gase. On Weber patient habevalies to the rt. On Rane abr conduction is greater than been conduction in the rt. On tt. ear - no response to bone or air. Heavelegied comm. by newsology resident — jerks on lateral gase. Rane positive on it. Weber normal. Mild finger to nose arrive which give verse with the eyes closed on the lt. He veers to the 16. When walking and falls on circle when walking to thelt. He mystagmus.

LAB DATA: CBC, urinalysis, BUN, electrolytes wal.

HOSFITAL COURSE: Patient had a lumbar tap on \$/16, erystal clear. Protein 80, no cells. OP 120, CP 70. On \$/22 the lumbar tap was repeated. Cell count 1 lymph. Protein 22. EEO wnl. Patient

BEST COPY AVAILABLE

Bourdley William

McDevice, Michael

COURSE: (cont.) stated that although them byunden were allereating him from returning to work, think they dispositing well the last 6 weeks.

Posient is discharged to be followed in alles.

Signs and symptomed Headache, establing plate Januaristin Symboling Localization none.

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Wi Sart/so

04-37-13 Chart No. Dup HOSPITAL 107 CONTINUATION RECORD MIDDLE BEX AGE DATE ADMITTED WARD OR CLIMIC 3RD. NEURO .... 23 4.0 w. m. 4. mos con braken ulunas hop I de central contien existe of lang lost of the offer 14 late + terdie Induny on chema Man & In news I can There ore the Mefly and figure except for previously desc stid Am

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#### ---- HOSPITAL

## CONTINUATION RECORD

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THE CITY OF NEW YORK DEPARTMENT OF HOSPITALS J 04-22-13

#### HOSPITAL

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CONTINUATION RECORD

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ತ್ರೂಬ್,	61 ork		NOV 3	1 1457				

BENJAMIN S. FISHMAN, M. D. 35 EAST 35TH STREET NEW YORK 16, N. Y.

MURRAY HILL 3.1699

November 28, 1967

Department of Health, Education and Welfare Social Security Administration.
District office
1387 St. Nicholas Avenue
New York, N. Y.

#### TO WHOM IT MAY CONCERN:

Please be advised that 1 am not Mr. Michael McDevitt's attending physician. I examined this patient on behalf of an insurance company.

For any information regarding this patient, kindly contact the insurance company.

Thanking you, I am

Yours very truly,

B. S. Fishman, M. D.

EXHIBIT 26

#### PROFESSIONAL QUALIFICATIONS

Physician's Name: Senjamin Carnuel Fishman

Year of Birth 1 . 10

Physician's Office Address 2 East 15th Street dew York, New York 10016

Type of Medical Practice and or Specialty. Internal Medicine - Full time Subspecialty:

Medical School and Year of Graduation: Tomatrable Qualification granted by English Conjoint Coard, United - 1988

License ( ) (show year(s) and State s), and or year of certification by National Board of Medical Examiners).

licement - 1. . .

American Specialty Boards

lational Scientific Medical Societies (indicate if Fellow):

Hospital Affiliations (state nature of association, e.g., Chief of Service, Attending Staff, Consultant, etc.):

Profess rial or Teaching Appointment(s):

.ew York University School of Medicine
.lew York

Other Information

Source(s) of Information (e.g., self, title of directory and page number, etc.)

EXHIBIT 27

American Medical Directory, With Ellithon 1967 Part 11, Page 2007

WAshington Heights 7 4646

DR. BENJAMIN RICE 605 WEST 170th STREET NEW YORK 32, N. Y.

Jan. 23, 1968.

Micheal McDevitt:

Was examined by me on Jan. 23rd, 1968. He states that he was struck on the head by a hard object and was taken to Bellevue Hospital, where he was under the care of the staff physician and was treated for a fracture of the skull.

Patients complains of headaches and dizziness which come on spontaneously.

Cochlear Test: Hearing in the right ear is mormal.
Hearing in the left ear is totally abscent at present.
estibular Test: Stimulation of left ear causes no
reaction. The left labyrinth in not functioning.
Stimulation of right labyrinth produces nystagmus to
the left, past pointing to the right and falling to
the right.

Impression: At present patient is not physically capable of doing any work. There is not a day that he doesn't have dizzy spells and headaches. He walks in a straight line without turning his head left or right The loss of hearing in the left ear is worrying the patient. He also worries about supporting his dependents.

But the principle factors are his dizziness and recurrent headaches. In conclusion, this patient at resent is still very sick as a result of the injury to his skull.

EXHIBIT 28

Blygmin Varie h.s.

(3/1/66) CE-383.2

To: Benjamin Rice N.D.	Claimant:	Michael J. McDevitt
	A/N:	102-34-4801

	PLEASE AUSWER ALL RED CIRCLED ITEMS
1.	Date(s) of your examination $1-23-68$
	Is there absence of air and bone conduction:
	Right ear no Lett ear Hes Totally.
3.	Give percentage estimate of loss of auditory acuity:
	a. Can hearing be improved by hearing aid? More regarding left EAR
4.	a. Can hearing be improved by hearing aid? Mit referriblely left EAK
	b. If used, estimate percentage improvement wind in lower
5.	Give frequency of attacks of Menieres syndrome 2 to 3 to a week
١٤,	Are there attacks of vertigo? He Frequency? Lacify
	Severity: moderate; severe
7.	Is the gait affected? Stefastey Describe Vector to the
	Sive any other serious condition significant to recovery functional at there cerebral involvement! If so, give residuals.
8.	Give any other serious condition significant to recovery husbulty at
	present to forours a fob-he can not work work
9.	is there cerebral involvement! If sc, give residuals.
	ys - teadoures, veggy recur.
	spinsonere, falling on swiftly tremery bead to little vigle or left
Sig	med Bufamin Rice M.D. Date 1-23-68
	Bureau Use: Review Physician M.D. Date

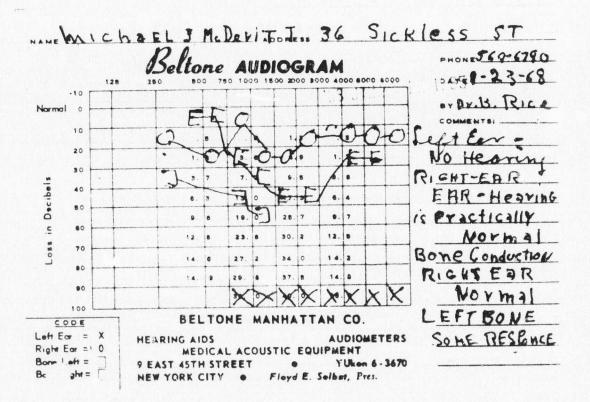
Supplementary Medical Data (9/67) CE-400

Claimant Michael McDevitt

A/N 102-34-4801

Give limitations on the following ac	ctivities:
Walking Walted Hereby	from rections (a blockly) how far and
	edicts tendency to ball to left
Carrying The agreements	a country much of much and how far 100 2 Block
Lifting Una fold	how much and how far
	ine movements from movement,
are fairly foor In	if movements eve difficult
Travel unaccompanied Came to	my office by homself,
although with o	one anxiet

To: Benjamin Rice M.D.



RICE	BENJAMIN	
(Last)	(First)	(Middle)
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Other Sources:

FRANK K. BOSCHENSTEIN, M. D NEUROLOGICAL INSTITUTE 710 WEST 168TH STREET NEW YORK, N. Y. 10032 579-5260

February 26, 1968

68 FEL -

Joseph J. Oliva M.D., Bureau of Disability Determinations, 110 William Street, New York, N.Y. 10038.

Dear Sir,

Re: Mr. Michael J. McDevitt, 36 Sickles Street, New York, N.Y.

This 23 year old right handed man was seen for neurological evaluation on February 13, 1968. He had been in his usual state of good health until April 29, 1967 when, while attempting to break up a fight, he was struck over the left occipital region by a heavy instrument and rendered unconscious. He was admitted to Bellevue where he was apparently unconscious for 2 or 3 days. During this period there was apparently bleeding from the left ear. On regaining sonsciousness he noted inability to hear from the left ear. He signed out of hospital on May 5 apparently because he was about to be married. Following this injury he has continued to complain of a variety of symptoms. He complains of intermittent severe headaches over the left temporal and frontal areas; these occur from 1 to 4 times per day and generally last for an hour or two. The pain is described as being severe and steady. In addition, when he has the headache he complains of blurring of vision. He also complains of loss of balance, particularly when running or on bending rapidly.

Past history and functional enquiry were essentially non contributory. The patient states he has had an ulcer for several years.

Physical examination revealed a well developed, well nourished, muscular young man. There were no abnormal physical findings. On neurological examination the cranial nerves were within normal limits except for the absence of hearing in the left ear. There was no evidence of discharge from the auditory canals. Examination of the motor system: When unobserved his gait was normal; however, on attempting to tandem walk he veered from side to side and complained of extreme dizziness. There was no evidence of focal motor weakness, although he tended to give way on muscle strength testing. Finger-nose and heel-shin tests were performed slowly and deliberately. Sensation was intact throughout. The deep tendon reflexes were brisk and equal and both toes were down going.

(174)

Bureau of Disability Determinations Re: Mr. Michael J. McDevitt

February 26, 1968

This man apparently sustained a severe head injury with a basal skull fracture which apparently severed the 8th cranial nerve. He has continued to complain of headaches dizziness which to some extent are improving slowly. Examination reveals some findings of a hysterical nature. I encouraged Mr. McDevitt to attempt in the near future to begin working part time, otherwise! am afraid his complaints will become permanent. Certainly he may never regain his hearing, but other than that he should recover completely.

Yours sincerely,

Frank Boschenstein M.D.

Dictated by Doctor Boschenstein & despatched in his absence:

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		M.D. Date   12/27/68  M.D. Date

REPORT O	r C		116	AC I
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NAME OF WAGE EARNER OR SELF EMPLOYED PERSON

122 Michael J. McDevitt (USE INK OR TYPEWRITER) PERSONISI CONTACTED AND ADDRESS EST WE OR SE PERSON ACCOUNT NUMBER (and symbol) 102-34-4801 Frank Boschenstein, M.D. 08V 18806 Neurologist New York City DATE OF CONTACT 00 C5 X PHONE Special HOME 3/7/68 Out - 579-5260 PURPOSE: To clarify CEMD's report. Dr. Boschenstein was advised that reports must bear his signature. He read his own copy and verified that the report submitted is complete and accurate. Dr. Boschenstein was advised about making statements to the claimant as to their ability to work or as to their disability. Dr. Boschenstein said that there were no limitations in walking, traveling, or in the use of hands. However, the claimant would not be able to bend or carry more than 10 lbs. due to his complaint of dizziness. CONCLUSION: Impairment is significant, and remaining functional capacity is as above. Frances E SIGNATURE CLAIMS CLERICAL

FORM OAC-5002 (1-68)

of Disubility Determine: FES:sf M7

DUFT. OF SC

ERRMENT PRINTING OFFICE 1965 0-750-633

FRANK K. BOSCHENSTEIN, M. D. NEUROLOGICAL INSTITUTE 710 WEST 168TH STREET NEW YORK 32, N. Y

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POPPOWER X REPORTED 579-5575

April 19, 1969

Bureau of Disability Determinations, 110 William Street, New York, N.Y. 10038.

Dear Sir,

Re: Mr. Michael J. McDevitt 36 Sickles Street, New York, N.Y.

Mr. McDevitt was seen for repeat examination on April 14, 1969. He was last examined on February 13, 1968. In September 1968 he underwent gastrectomy at Roosevelt Hospital for the treatment of a bleeding ulcer. He was apparently recovering and doing reasonably well until 3 weeks ago when, while standing on a stool painting he felt somewhat light headed and fell striking the left side of his jaw against a radiator; the jaw was fractured and at the present time his teeth are wired.

On this occasion the patient did not complain of the numerous headaches which formed a prominent pattern a year ago. He stated he still had episodes of dizziness, by which he means he had a sensation of weakness all over, but unaccompanied by any alteration in consciousness.

The general physical and neurological examinations were essentially unchanged from a year ago. On neurological examination he continues to give way on muscle testing. He performs repetitive actions slowly and deliberately, he still veers from side to side on tandem walking but has a normal gait when not directly observed. Sensation was intact throughout. The deep tendon reflexes were equal and both toes were down going.

Again there is no clearcut evidence of organic disease with the exception of the left hearing loss secondary to his head injury. The etiology of his dizzy spells is difficult to ascertain; occasionally they are induced by rapid sitting or rapid head turning and this may represent a minimal labyrinthine dysfunction as a result of his old head injury. It is felt that a repeat EEG might be of some value at this time to rule out the presence of a seizure disorder, though clinically this seems unlikely.

Yours sincerely,

Frank Boschenstein M.D.

Nervous System (8/66) CE-392

· • _	Frank Boschenstein M.D.	Claimant .	Michael	McDi et	tt	12'
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	(Reverse) (11/65) CE-392	-
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For Bureau Use: Review Physician

M.D. Date

## PROFESSIONAL QUALIFICATIONS

	BOSCHENSTEIN	Frank	K. 125
	(Last)	(F.1.61)	(Middle)
. Address	Neurological Institute,	710 W. 168th Stre	et
	New York, New York 100		
AMA Membership:	<b>~</b>	No	
Year of Birth (B):	1929		
Medical Education (M	ME): State: Ontario, Canad	8	
	University of	Toronto	
	School: Faculty de Me	dicine	
	Year of Degree: 1954		
Year of License (L):	1964		
National Board (NB):	Yes X No		
	Year:		
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American Specially Be	oards (AB): American Board	of Psychiatry & Ne	urology
Medical Specialties:			
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Professorial Appointment Other Information:  Sources of Information:	ents (PA): State: School:		

Other Sources:



## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE SOCIAL SECURITY ADMINISTRATION

BALTIMORE, MARYLAND 21241

GIVE CLAIM NO. WHEN WRITING ABOUT YOUR CLAIM TOI SOCIAL SECURITY OFFICE 1292 ron trar "ow York City, Tr 10033

Ary 29, 1969

Mahaat : Tahawitt 36 Sinclas 36 Yew York, 'Y 1001,0

We recently reviewed the evidence in your disability claim and find that you are still disabled. Therefore, your benefit payments will continue.

Disability benefits can continue to be paid to you during a trial work period of up to 9 months. This permits you to test your ability to work while you are disabled without losing any benefits. The 9 months may be consecutive or they may be separated by months in which you do no work. Any month in which you have performed services since you became entitled to benefits counts as one of the trial work months.

According to the information reported to us, your 9th month of trial work will be Table 19 . At that time your social security district office will get in touch with you to obtain information about / the nature of your work and the amount of earnings. Your claim will then be reviewed to see whether you are still disabled within the meaning of the law. If you are, your benefits will be continued. If, you are no longer disabled you will receive benefits for 3 additional months after the end of the trial work period.

The law also provides that entitlement to disability benefits shall end if it is determined that an individual's medical condition is no longer severe enough to prevent him from working. In such cases the trial work period ends upon recovery. However, even if the trial work period is thus ended, you will receive 3 additional months'benefits.

EXHIBIT 34

Please let us know if you stop working or if you feel that you have recovered from your disability. If you have any questions about this notice or other social security matters, you should get touch with your social security office. If you call in person, please take this notice with you.

Sincerely yours,

C. C. Hall, Assistant Director Bureau of Disability Insurance

REQUEST FOR EARNINGS RECORD IN FORMATION	RSI CLAIM DISABILITY C-CLAIM	HI CLAIM EARNINGS DISCREPANCY	9/20/73.
Bureau of Data Processing and Accounts	102-34-4801	3, KM	
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	Michael J. McD		7-27-44
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SEI under \$400-report shows maximum earnings. Employee omitted from wage report.

No wage report for this period. N.R.

No Employer Identification No. under this name and address. Nontaxable wage report. No employees listed on report. No E.I. No. N.T.R.

SEI report processed-nature of business e stioned. SEI report received from minister.

No earnings on earnings record-large employer-items not in order on report.

SEI report returned to DDIR. RT

SEI report teturned to DDIR-business exempt or net earnings under \$400.

SEI adjustmen report received-no change in previous SEI amount. Time limitation ( tred for filing SE report.

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Explanation of Entry Codes. -Odd number or no number barown in column means the item is an increase-even number means the item is a decrease.

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### TRANSCRIPT OF EARNINGS RECORD - CONTINUATION SHEET

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